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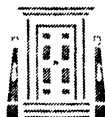
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UNITED NATIONS  
DOCUMENTS  
1941-1945



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## PREFACE

Chatham House has for some time past received inquiries for the documents of the United Nations in an easily accessible form. That all the documents here printed have never previously been reproduced between the same covers is the justification for this edition. The documents printed here include those concerning the origin of the United Nations, its Charter and other international organizations formed in association with it down to the end of 1945. In view of the length of some of the documents and to economize space, preambles, appendices, lists of delegates or signatories, and other sections have in some cases been omitted.

The criterion of selection has been the forward-looking decisions of the United Nations. For example, with the exception of the original United Nations Declaration, no part of a communiqué or declaration by the United Nations (or the Big Three on their behalf) dealing solely with the actual prosecution of the war has been included. But since the peace settlement must to some extent condition relations between the United Nations in the future, sections dealing with policy towards Italy, Austria, Germany, and Japan have been included. It is hoped that in due course these and succeeding United Nations documents will appear in the annual volumes of *Documents on International Affairs*, published by the Institute.

For the sake of consistency, certain minor typographical alterations have been made which in no way affect the sense.



# UNITED NATIONS DOCUMENTS

1941-1945



## INTER-ALLIED MEETING

Held in London at St James's Palace on June 12, 1941

### RESOLUTION<sup>1</sup>

The Governments of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand and South Africa, the Government of Belgium, the Provisional Czechoslovak Government, the Governments of Greece, Luxemburg, the Netherlands, Norway, Poland and Yugoslavia, and the Representatives of General de Gaulle, leader of Free Frenchmen,

Engaged together in the fight against aggression,

Are resolved—

1. That they will continue the struggle against German or Italian oppression until victory is won, and will mutually assist each other in this struggle to the utmost of their respective capacities;

2. That there can be no settled peace and prosperity so long as free peoples are coerced by violence into submission to domination by Germany or her associates, or live under the threat of such coercion;

3. That the only true basis of enduring peace is the willing co-operation of free peoples in a world in which, relieved of the menace of aggression, all may enjoy economic and social security; and that it is their intention to work together, and with other free peoples, both in war and peace to this end.

## JOINT DECLARATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA AND MR WINSTON CHURCHILL, REPRESENTING HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM, KNOWN AS THE ATLANTIC CHARTER<sup>2</sup>

August 14, 1941

The President of the United States and the Prime Minister, Mr Churchill, representing His Majesty's Government in the United Kingdom, being met together, deem it right to make known certain common principles in the national policies of their respective countries on which they base their hopes for a better future for the world.

<sup>1</sup> Cmd. 6285.

<sup>2</sup> Cmd. 6321.

## ATLANTIC CHARTER

First, their countries seek no aggrandisement, territorial or other.

Second, they desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned.

Third, they respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them.

Fourth, they will endeavour, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity.

Fifth, they desire to bring about the fullest collaboration between all nations in the economic field, with the object of securing for all improved labour standards, economic advancement and social security.

Sixth, after the final destruction of Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want.

Seventh, such a peace should enable all men to traverse the high seas and oceans without hindrance.

Eighth, they believe all of the nations of the world, for realistic as well as spiritual reasons, must come to the abandonment of the use of force. Since no future peace can be maintained if land, sea or air armaments continue to be employed by nations which threaten, or may threaten, aggression outside of their frontiers, they believe, pending the establishment of a wider and permanent system of general security, that the disarmament of such nations is essential. They will likewise aid and encourage all other practicable measures which will lighten for peace-loving peoples the crushing burden of armaments.

## INTER-ALLIED MEETING

Held in London at St James's Palace on September 24, 1941

### RESOLUTION<sup>1</sup>

The Governments of Belgium, Czechoslovakia, Greece, Luxembourg, the Netherlands, Norway, Poland, Union of Soviet Socialist Republics and Yugoslavia, and the representatives of General de Gaulle, leader of Free Frenchmen,

<sup>1</sup> Cmd. 6315.



## UNITED NATIONS DECLARATION

Having taken note of the Declaration recently drawn up by the President of the United States and by the Prime Minister, Mr Churchill, on behalf of His Majesty's Government in the United Kingdom,

Now make known their adherence to the common principles of policy set forth in that Declaration and their intention to co-operate to the best of their ability in giving effect to them.

### DECLARATION BY UNITED NATIONS<sup>1</sup>

Washington, January 1, 1942

A JOINT DECLARATION BY THE UNITED STATES OF AMERICA, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, THE UNION OF SOVIET SOCIALIST REPUBLICS, CHINA, AUSTRALIA, BELGIUM, CANADA, COSTA RICA, CUBA, CZECHOSLOVAKIA, DOMINICAN REPUBLIC, EL SALVADOR, GREECE, GUATEMALA, HAITI, HONDURAS, INDIA, LUXEMBURG, NETHERLANDS, NEW ZEALAND, NICARAGUA, NORWAY, PANAMA, POLAND, SOUTH AFRICA, YUGOSLAVIA

The Governments signatory hereto,

Having subscribed to a common programme of purposes and principles embodied in the Joint Declaration of the President of the United States of America and the Prime Minister of the United Kingdom of Great Britain and Northern Ireland, dated August 14, 1941, known as the Atlantic Charter,

Being convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands, and that they are now engaged in a common struggle against savage and brutal forces seeking to subjugate the world, declare:

1. Each Government pledges itself to employ its full resources, military or economic, against those members of the Tripartite Pact and its adherents with which such government is at war.

2. Each Government pledges itself to co-operate with the Governments signatory hereto and not to make a separate armistice or peace with the enemies.

The foregoing declaration may be adhered to by other nations which are, or which may be, rendering material assistance and contributions in the struggle for victory over Hitlerism.

<sup>1</sup> Cmd. 6388.

AGREEMENT BETWEEN THE GOVERNMENTS OF THE  
UNITED KINGDOM AND THE UNITED STATES OF  
AMERICA ON THE PRINCIPLES APPLYING TO MUTUAL  
AID IN THE PROSECUTION OF THE WAR AGAINST  
AGGRESSION<sup>1</sup>

Washington, February 23, 1942

*Article 7*

In the final determination of the benefits to be provided to the United States of America by the Government of the United Kingdom in return for aid furnished under the Act of Congress of March 11, 1941, the terms and conditions thereof shall be such as not to burden commerce between the two countries, but to promote mutually advantageous economic relations between them and the betterment of world-wide economic relations. To that end, they shall include provision for agreed action by the United States of America and the United Kingdom, open to participation by all other countries of like mind, directed to the expansion, by appropriate international and domestic measures, of production, employment, and the exchange and consumption of goods, which are the material foundations of the liberty and welfare of all peoples; to the elimination of all forms of discriminatory treatment in international commerce, and to the reduction of tariffs and other trade barriers; and, in general, to the attainment of all the economic objectives set forth in the Joint Declaration made on August 14, 1941, by the President of the United States of America and the Prime Minister of the United Kingdom.

At an early convenient date conversations shall be begun between the two Governments with a view to determining, in the light of governing economic conditions, the best means of attaining the above-stated objectives by their own agreed action and of seeking the agreed action of other like-minded Governments.

<sup>1</sup> Cmd. 6391.

## MOSCOW CONFERENCE<sup>1</sup>

October 19-30, 1943

### DECLARATION OF THE FOUR NATIONS ON GENERAL SECURITY

The Governments of the United States, the United Kingdom, the U.S.S.R. and China: united in their determination, in accordance with the declaration by the United Nations of January 1, 1942, and subsequent declarations, to continue hostilities against those Axis Powers with which they respectively are at war until such Powers have laid down their arms on the basis of unconditional surrender; conscious of their responsibility to secure the liberation of themselves and the people allied to them from the menace of aggression; recognizing the necessity of ensuring rapid and orderly transit from war to peace and of establishing and maintaining international peace and security with the least diversion of this world's human and economic resources for armaments; jointly declare:

1. That their united action, pledged for the prosecution of the war against their respective enemies, will be continued for the organization and maintenance of peace and security;

2. That those of them at war with a common enemy will act together in all matters relating to the surrender and disarmament of that enemy;

3. That they will take all measures deemed by them to be necessary to provide against any violation of the terms imposed on the enemy;

4. That they recognize the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-loving States and open to membership by all such States, large or small, for the maintenance of international peace and security;

5. That for the purpose of maintaining international peace and security pending the re-establishment of law and order and the inauguration of a system of general security they will consult with each other, and, as occasion requires, with other members of the United Nations, with a view to joint action on behalf of the community of Nations;

6. That after the termination of hostilities they will not employ their military forces within the territories of other States except for the purposes envisaged in this declaration and after joint consultation, and;

7. That they will confer and co-operate with one another and with other members of the United Nations to bring about a practicable general agreement with respect to the regulation of armaments in the post-war period.

<sup>1</sup> Foreign Office News Department Press Communiqué of November 1, 1943.

## FIRST MOSCOW CONFERENCE

### DECLARATION ON ITALY

The Foreign Secretaries of the United States, United Kingdom and Soviet Union have established that their three Governments are in complete agreement that Allied policy towards Italy must be based upon the fundamental principle that Fascism and all its evil influence and emanations shall be utterly destroyed and that the Italian people shall be given every opportunity to establish governmental and other institutions based upon democratic principles.

The Foreign Secretaries of the United States and United Kingdom declare that the action of their governments from the inception of invasion of Italian territory, in so far as paramount military requirements have permitted, has been based upon this policy.

In furtherance of this policy in the future the Foreign Secretaries of the three Governments are agreed that the following measures are important and should be put into effect:

1. It is essential that the Italian Government should be made more democratic by the introduction of representatives of those sections of the Italian people who have always opposed Fascism.

2. Freedom of speech, of religious worship, of political belief, of press and of public meeting shall be restored in full measure to the Italian people who shall also be entitled to form anti-Fascist political groups.

3. All institutions and organizations created by the Fascist regime shall be suppressed.

4. All Fascist or pro-Fascist elements shall be removed from administration and from institutions and organizations of a public character.

5. All political prisoners of the Fascist regime shall be released and accorded a full amnesty.

6. Democratic organs of local government shall be created.

7. Fascist chiefs and army generals known or suspected to be war criminals shall be arrested and handed over to justice.

In making this declaration the three Foreign Secretaries recognize that so long as active military operations continue in Italy the time at which it is possible to give full effect to the principles set out above will be determined by the C. in C. on the basis of instructions received through the combined Chiefs of Staff. The three Governments parties to this declaration will at the request of any one of them consult on this matter.

It is further understood that nothing in this resolution is to operate against the right of the Italian people ultimately to choose their own form of government.

DECLARATION ON AUSTRIA

The Governments of the United Kingdom, the Union of Soviet Socialist Republics and the United States have agreed that Austria, the first free country to fall a victim to Nazi aggression, shall be liberated from German domination.

They regard the annexation imposed upon Austria by Germany's penetration of March 15, 1938, as null and void. They consider themselves in as no way bound by any changes effected in Austria since that date. They declare they wish to see re-established a free and independent Austria, and thereby to open the way for the Austrian people themselves as well as those neighbouring states which will be faced with similar problems, to find that political and economic security which is the only basis for lasting peace.

Austria is reminded however that she has a responsibility which she cannot evade for participation in the war on the side of Hitlerite Germany and that in the final settlement account will inevitably be taken of her own contribution to her liberation.

DECLARATION ON ATROCITIES

The United Kingdom, the United States and the Soviet Union have received from many quarters evidence of atrocities, massacres and cold-blooded mass executions which are being perpetrated by the Hitlerite forces in many of the countries they have overrun and from which they are now being steadily expelled. The brutalities of Hitlerite domination are no new thing and all peoples or territories in their grip have suffered from the worst form of Government by terror. What is new is that many of these territories are now being redeemed by the advancing armies of the liberating Powers and that, in their desperation, the recoiling Hitlerite Huns are redoubling their ruthless cruelties. This is now evidenced with particular clearness by the monstrous crimes of the Hitlerites on the territory of the Soviet Union which is being liberated from the Hitlerites, and on French and Italian territory.

Accordingly the aforesaid three Allied Powers, speaking in the interests of the 32 United Nations, hereby solemnly declare and give full warning of their declaration as follows: At the time of the granting of any armistice to any Government which may be set up in Germany, those German officers and men and members of the Nazi party who have been responsible for or have taken a consenting part in the above atrocities, massacres and executions will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of those liberated countries and of the Free Governments which will be erected therein. Lists will be compiled in all possible detail from all

## FIRST MOSCOW CONFERENCE

these countries having regard especially to the invaded parts of the Soviet Union, to Poland and Czechoslovakia, to Yugoslavia and Greece including Crete and other islands, to Norway, Denmark, the Netherlands, Belgium, Luxemburg, France and Italy.

Thus Germans who take part in wholesale shootings of Polish officers or in the execution of French, Dutch, Belgian or Norwegian hostages or of Cretan peasants, or who have shared in the slaughters inflicted on the people of Poland or in the territories of the Soviet Union which are now being swept clear of the enemy, will know that they will be brought back to the scene of their crimes and judged on the spot by the peoples whom they have outraged. Let those who have hitherto not imbrued their hands with innocent blood beware lest they join the ranks of the guilty, for most assuredly the three Allied Powers will pursue them to the uttermost ends of the earth and will deliver them to the accusers in order that justice may be done.

The above declaration is without prejudice to the case of German criminals, whose offences have no particular geographical location and who will be punished by a joint decision of the Governments of the Allies.

## AGREEMENT FOR UNITED NATIONS RELIEF AND REHABILITATION ADMINISTRATION<sup>1</sup>

Washington, November 9, 1943

[CONSTITUTION]

The Governments or Authorities whose duly authorized representatives have subscribed hereto,

Being United Nations or being associated with the United Nations in this war,

Being determined that immediately upon the liberation of any area by the armed forces of the United Nations or as a consequence of retreat of the enemy the population thereof shall receive aid and relief from their sufferings, food, clothing and shelter, aid in the prevention of pestilence and in the recovery of the health of the people, and that preparation and arrangements shall be made for the return of prisoners and exiles to their homes and for assistance in the resumption of urgently needed agricultural and industrial production and the restoration of essential services,

Have agreed as follows:—

<sup>1</sup> Cmd. 6491.

*Article 1*

There is hereby established the United Nations Relief and Rehabilitation Administration.

1. The Administration shall have power to acquire, hold and convey property, to enter into contracts and undertake obligations, to designate or create agencies and to review the activities of agencies so created, to manage undertakings and in general to perform any legal act appropriate to its objects and purposes.

2. Subject to the provisions of article VII, the purposes and functions of the Administration shall be as follows:—

- (a) To plan, co-ordinate, administer or arrange for the administration of measures for the relief of victims of war in any area under the control of any of the United Nations through the provision of food, fuel, clothing, shelter and other basic necessities, medical and other essential services; and to facilitate in such areas, so far as necessary to the adequate provision of relief, the production and transportation of these articles and the furnishing of these services. The form of activities of the Administration within the territory of a member Government wherein that Government exercises administrative authority and the responsibility to be assumed by the member Government for carrying out measures planned by the Administration therein shall be determined after consultation with and with the consent of the member Government.
- (b) To formulate and recommend measures for individual or joint action by any or all of the member Governments for the co-ordination of purchasing, the use of ships and other procurement activities in the period following the cessation of hostilities, with a view to integrating the plans and activities of the Administration with the total movement of supplies, and for the purpose of achieving an equitable distribution of available supplies. The Administration may administer such co-ordination measures as may be authorized by the member Governments concerned.
- (c) To study, formulate and recommend for individual or joint action by any or all of the member Governments measures with respect to such related matters, arising out of its experience in planning and performing the work of relief and rehabilitation, as may be proposed by any of the member Governments. Such proposals shall be studied and recommendations formulated if the proposals are supported by a vote of the Council, and the recommendations shall be referred to

## UNRRA CONSTITUTION

any or all of the member Governments for individual or joint action if approved by unanimous vote of the Central Committee and by vote of the Council.

### *Article 2*

#### MEMBERSHIP

The members of the United Nations Relief and Rehabilitation Administration shall be the Governments or Authorities signatory hereto and such other Governments or Authorities as may upon application for membership be admitted thereto by action of the Council. The Council may, if it desires, authorize the Central Committee to accept new members between sessions of the Council.

Wherever the term "member Government" is used in this agreement it shall be construed to mean a member of the Administration, whether a Government or an authority.

### *Article 3*

#### THE COUNCIL

1. Each member Government shall name one representative, and such alternates as may be necessary, upon the Council of the United Nations Relief and Rehabilitation Administration, which shall be the policy-making body of the Administration. The Council shall, for each of its sessions, select one of its members to preside at the session. The Council shall determine its own rules of procedure. Unless otherwise provided by the agreement or by action of the Council, the Council shall vote by simple majority.

2. The Council shall be convened in regular session not less than twice a year by the Central Committee. It may be convened in special session whenever the Central Committee shall deem necessary, and shall be convened within thirty days after request therefore by one-third of the members of the Council.

3. The Central Committee of the Council shall consist of the representatives of China, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, with the Director-General presiding without vote. Between sessions of the Council it shall when necessary make policy decisions of an emergency nature. All such decisions shall be recorded in the minutes of the Central Committee which shall be communicated promptly to each member Government. Such decisions shall be open to reconsideration by the Council at any regular session or at any special session called in accordance with article III, paragraph 2. The Central Committee shall invite the participation of the representative of any member Government at those of its meetings at which action of



special interest to such Government is discussed. It shall invite the participation of the representative serving as chairman of the Committee on Supplies of the Council at those of its meetings at which policies affecting the provision of supplies are discussed.

4. The Committee on Supplies of the Council shall consist of the members of the Council, or their alternates, representing those member Governments likely to be principal suppliers of materials for relief and rehabilitation. The members shall be appointed by the Council, and the Council may authorize the Central Committee to make emergency appointments between sessions of the Council, such appointments to continue until the next session of the Council. The Committee on Supplies shall consider, formulate and recommend to the Council and the Central Committee policies designed to assure the provision of required supplies. The Central Committee shall from time to time meet with the Committee on Supplies to review policy matters affecting supplies.

5. The Committee of the Council for Europe shall consist of all the members of the Council, or their alternates, representing member Governments of territories within the European area, and such other members of the Council, representing other Governments directly concerned with the problems of relief and rehabilitation in the European area, as shall be appointed by the Council; the Council may authorize the Central Committee to make these appointments in cases of emergency between sessions of the Council, such appointments to continue until the next session of the Council. The Committee of the Council for the Far East shall consist of all the members of the Council, or their alternates representing member Governments of territories within the Far Eastern area, and such other members of the Council representing other Governments directly concerned with the problems of relief and rehabilitation in the Far Eastern area as shall be appointed by the Council; the Council may authorize the Central Committee to make these appointments in cases of emergency between sessions of the Council, such appointments to continue until the next session of the Council. The regional committees shall normally meet within their respective areas. They shall consider and recommend to the Council and the Central Committee policies with respect to relief and rehabilitation within their respective areas. The Committee of the Council for Europe shall replace the Inter-Allied Committee on European post-war relief established in London on September 24, 1941, and the records of the latter shall be made available to the committee for Europe.

6. The Council shall establish such other standing regional committees as it shall consider desirable, the functions of such committees

## UNRRA CONSTITUTION

and the method of appointing their members being identical to that provided in article III, paragraph 5, with respect to the committees of the Council for Europe and for the Far East. The Council shall also establish such other standing committees as it considers desirable to advise it, and, in intervals between sessions of the Council, to advise the Central Committee. For such standing technical committees as may be established, in respect of particular problems such as nutrition, health, agriculture, transport, repatriation and finance, the members may be members of the Council or alternates nominated by them because of special competence in their respective fields of work. The members shall be appointed by the Council, and the Council may authorize the Central Committee to make emergency appointments between sessions of the Council, such appointments to continue until the next session of the Council. Should a regional committee so desire, sub-committees of the standing technical committees shall be established by the technical committees in consultation with the regional committees, to advise the regional committees.

7. The travel and other expenses of members of the Council and of members of its committees shall be borne by the Governments which they represent.

8. All reports and recommendations of committees of the Council shall be transmitted to the Director-General for distribution to the Council and the Central Committee by the secretariat of the Council established under the provisions of article IV, paragraph 4.

### *Article 4*

#### THE DIRECTOR-GENERAL

1. The executive authority of the United Nations Relief and Rehabilitation Administration shall be in the Director-General, who shall be appointed by the Council on the nomination by unanimous vote of the Central Committee. The Director-General may be removed by the Council on recommendation, by unanimous vote, of the Central Committee.

2. The Director-General shall have full power and authority for carrying out relief operations contemplated by article I, paragraph 2 (a), within the limits of available resources and the broad policies determined by the Council or its Central Committee. Immediately upon taking office he shall, in conjunction with the military and other appropriate authorities of the United Nations, prepare plans for the emergency relief of the civilian population in any area occupied by the armed forces of any of the United Nations, arrange for the procurement and assembly of the necessary supplies and create or select the emergency organization required for this purpose. In

arranging for the procurement, transportation and distribution of supplies and services, he and his representatives shall consult and collaborate with the appropriate authorities of the United Nations and shall, wherever practicable, use the facilities made available by such authorities. Foreign voluntary relief agencies may not engage in activity in any area receiving relief from the Administration without the consent and unless subject to the regulation of the Director-General. The powers and duties of the Director-General are subject to the limitations of article VII.

3. The Director-General shall also be responsible for the organization and direction of the functions contemplated by article I, paragraphs 2 (*b*) and 2 (*c*).

4. The Director-General shall appoint such Deputy Directors-General, officers, expert personnel, and staff at his headquarters and elsewhere, including field missions, as he shall find necessary, and he may delegate to them such of his powers as he may deem appropriate. The Director-General, or upon his authorization the Deputy Directors-General, shall supply such secretariat and other staff and facilities as shall be required by the Council and its committees, including the regional committees and sub-committees. Such Deputy Directors-General as shall be assigned special functions within a region shall attend meetings of the regional standing committee whenever possible and shall keep it advised on the progress of the relief and rehabilitation programme within the region.

5. The Director-General shall make periodic reports to the Central Committee and to the Council covering the progress of the Administration's activities. The reports shall be made public except for such portions as the Central Committee may consider it necessary, in the interest of the United Nations, to keep confidential; if a report affects the interests of a member Government in such a way as to render it questionable whether it should be published, such Government shall have an opportunity of expressing its views on the question of publication. The Director-General shall also arrange to have prepared periodic reports covering the activities of the Administration within each region and he shall transmit such reports with his comments thereon to the Council, the Central Committee and the respective regional committees.

### *Article 5*

#### SUPPLIES AND RESOURCES

1. In so far as its appropriate constitutional bodies shall authorize, each member Government will contribute to the support of the Administration in order to accomplish the purposes of article I, paragraph 2 (*a*). The amount and character of the contributions of

## UNRRA CONSTITUTION

each member Government under this provision will be determined from time to time by its appropriate constitutional bodies. All such contributions received by the Administration shall be accounted for.

2. The supplies and resources made available by the member Governments shall be kept in review in relation to prospective requirements by the Director-General, who shall initiate action with the member Governments with a view to assuring such additional supplies and resources as may be required.

3. All purchases by any of the member Governments, to be made outside their own territories during the war for relief or rehabilitation purposes, shall be made only after consultation with the Director-General, and shall, so far as practicable, be carried out through the appropriate United Nations agency.

### *Article 6*

#### ADMINISTRATIVE EXPENSES

The Director-General shall submit to the Council an annual budget, and from time to time such supplementary budgets as may be required, covering the necessary administrative expenses of the Administration. Upon approval of a budget by the Council the total amount approved shall be allocated to the member Governments in proportions to be determined by the Council. Each member Government undertakes, subject to the requirements of its constitutional procedure, to contribute to the Administration promptly its share of the administrative expenses so determined.

### *Article 7*

Notwithstanding any other provision herein contained, while hostilities or other military necessities exist in any area, the Administration and its Director-General shall not undertake activities therein without the consent of the military command of that area, and unless subject to such control as the command may find necessary. The determination that such hostilities or military necessities exist in any area shall be made by its military commander.

### *Article 8*

#### AMENDMENT

The provisions of this agreement may be amended as follows:—

- (a) Amendments involving new obligations for member Governments shall require the approval of the Council by a two-thirds vote and shall take effect for each member Government on acceptance by it;

- (b) Amendments involving modification of article III or article IV shall take effect on adoption by the Council by a two-thirds vote, including the votes of all the members of the Central Committee;
- (c) Other amendments shall take effect on adoption by the Council by a two-thirds vote.

### *Article 9*

#### ENTRY INTO FORCE

This agreement shall enter into force with respect to each signatory on the date when the agreement is signed by that signatory, unless otherwise specified by such signatory.

### *Article 10*

#### WITHDRAWAL

Any member Government may give notice of withdrawal from the Administration at any time after the expiration of six months from the entry into force of the agreement for that Government. Such notice shall take effect twelve months after the date of its communication to the Director-General subject to the member Government having met by that time all financial, supply or other material obligations accepted or undertaken by it.

In witness whereof, this agreement is signed by the following representatives, duly authorized for that purpose by their respective Governments or Authorities.

Done in Washington this ninth day of November, one thousand nine hundred forty-three, in the English language, the original to be deposited in the archives of the Department of State of the United States of America, and certified copies thereof to be furnished by the Government of the United States of America to each of the Governments and Authorities on whose behalf this agreement is signed.

[Here follow the signatures of the representatives of: Australia, Belgium, Bolivia, Brazil, Canada, Chile,<sup>1</sup> China, Colombia,<sup>1</sup> Costa Rica, Cuba,<sup>1</sup> Czechoslovakia, Dominican Republic, Ecuador,<sup>1</sup> Egypt, El Salvador, Ethiopia,<sup>1</sup> French Committee of National Liberation, Greece, Guatemala,<sup>1</sup> Hayti, Honduras, Iceland, India,<sup>1</sup> Iran,<sup>1</sup> Iraq,<sup>1</sup> Liberia, Luxemburg, Mexico,<sup>1</sup> Netherlands, New Zealand, Nicaragua,<sup>1</sup> Norway, Panama, Paraguay, Peru,<sup>1</sup> Philippine Commonwealth, Poland, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay,<sup>1</sup> Venezuela<sup>1</sup> and Yugoslavia.]

<sup>1</sup> Signed subject to ratification or legislative approval.

## TEHERAN DECLARATION<sup>1</sup>

December 1, 1943

We, The President of the United States of America, the Prime Minister of Great Britain and the Premier of the Soviet Union have met these four days past in this the capital of our ally Iran and have shaped and confirmed our common policy.

We expressed our determination that our Nations shall work together in war and in the peace that will follow.

As to war our Military Staffs have joined in our Round Table discussions and we have concerted our plans for the destruction of the German forces. We have reached complete agreement as to the scope and timing of the operations which will be undertaken from the east, west, and south.

The common understanding which we have here reached guarantees that victory will be ours.

And as to peace we are sure that our concord will make it an enduring peace. We recognize fully the supreme responsibility resting upon us and all the United Nations to make a peace which will command the good will of the overwhelming masses of the peoples of the world and banish the scourge and terror of war for many generations.

With our Diplomatic advisers we have surveyed the problems of the future. We shall seek the co-operation and the active participation of all nations large and small whose peoples in heart and mind are dedicated as are our own peoples to the elimination of tyranny and slavery, oppression and intolerance. We will welcome them as they may choose to come into a world family of Democratic Nations.

No power on earth can prevent our destroying the German armies by land, their U-boats by sea and their war plants from the air. Our attacks will be relentless and increasing.

From these friendly conferences we look with confidence to the day when all peoples of the world may live free lives untouched by tyranny and according to their varying desires and their own consciences.

We came here with hope and determination. We leave here friends in fact, in spirit and in purpose.

SIGNED AT TEHERAN DECEMBER 1, 1943

ROOSEVELT  
STALIN  
CHURCHILL

<sup>1</sup> Ministry of Information Press Release, December 6, 1943.

## CAIRO COMMUNIQUÉ<sup>1</sup>

December 1, 1943

President Roosevelt, Generalissimo Chiang Kai-shek, and the Prime Minister, Mr Churchill, together with their respective military and diplomatic advisers, have completed a conference in North Africa. The following general statement has been issued:—

“The several military missions have agreed upon future military operations against Japan.

“The three great allies expressed their resolve to bring unrelenting pressure against their brutal enemies by sea, land, and air. This pressure is already rising.

“The three great allies are fighting this war to restrain and punish the aggression of Japan. They covet no gain for themselves, and have no thought of territorial expansion.

“It is their purpose that Japan shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the first world war in 1914, and that all the territories that Japan has stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores, shall be restored to the Republic of China.

“Japan will also be expelled from all other territories which she has taken by violence and greed.

“The aforesaid three Great Powers, mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent.

“With these objectives in view the three allies, in harmony with those of the United Nations at war with Japan, will continue to persevere in the serious and prolonged operations necessary to procure the unconditional surrender of Japan.”

## DECLARATION ADOPTED BY THE INTERNATIONAL LABOUR CONFERENCE AT ITS TWENTY-SIXTH SESSION<sup>2</sup>

Philadelphia, April—May 1944

### DECLARATION CONCERNING THE AIMS AND PURPOSES OF THE INTERNATIONAL LABOUR ORGANIZATION

The General Conference of the International Labour Organization, meeting in its Twenty-sixth Session in Philadelphia, hereby adopts, this tenth day of May in the year nineteen hundred and

<sup>1</sup> *The Times*, December 2, 1943.

<sup>2</sup> International Labour Office, *Official Bulletin*, June 1, 1944.

## PHILADELPHIA CHARTER

forty-four, the present Declaration of the aims and purposes of the International Labour Organization and of the principles which should inspire the policy of its Members.

### I

The Conference reaffirms the fundamental principles on which the Organization is based and, in particular, that:

- (a) labour is not a commodity;
- (b) freedom of expression and of association are essential to sustained progress;
- (c) poverty anywhere constitutes a danger to prosperity everywhere;
- (d) the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of Governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

### II

Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organization that lasting peace can be established only if it is based on social justice, the Conference affirms that:

- (a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;
- (b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;
- (c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;
- (d) it is a responsibility of the International Labour Organization to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;
- (e) in discharging the tasks entrusted to it the International Labour Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.



## III

The Conference recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve:

- (a) full employment and the raising of standards of living;
- (b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
- (c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
- (d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;
- (e) the effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
- (f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
- (g) adequate protection for the life and health of workers in all occupations;
- (h) provision for child welfare and maternity protection;
- (i) the provision of adequate nutrition, housing and facilities for recreation and culture;
- (j) the assurance of equality of educational and vocational opportunity.

## IV

Confident that the fuller and broader utilization of the world's productive resources necessary for the achievement of the objectives set forth in this Declaration can be secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations, to promote the economic and social advancement of the less developed regions of the world, to assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full co-operation of the International Labour Organization with such international bodies as

## PHILADELPHIA CHARTER

may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

### V

The Conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilized world.

## UNITED NATIONS MONETARY AND FINANCIAL CONFERENCE<sup>1</sup>

Bretton Woods, New Hampshire, July 1—July 22, 1944

The Governments of Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia; the French Delegation; the Governments of Greece, Guatemala, Haiti, Honduras, Iceland, India, Iran, Iraq, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippine Commonwealth, Poland, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United States of America, Uruguay, Venezuela, and Yugoslavia were represented.

*[Here follows a list of delegates and commissions, and of resolutions, statements and recommendations, the more important of which appear below.]*

### IV

#### STATEMENT REGARDING SILVER

The problems confronting some nations as a result of the wide fluctuation in the value of silver were the subject of serious discussion in Commission III. Due to the shortage of time, the magnitude of the other problems on the agenda, and other limiting considerations, it was impossible to give sufficient attention to this problem at this time in order to make definite recommendations. However, it was the sense of Commission III that the subject should merit further study by the interested nations.

<sup>1</sup> Cmd. 6546.

## V

LIQUIDATION OF THE BANK FOR INTERNATIONAL SETTLEMENTS  
The United Nations Monetary and Financial Conference

## RECOMMENDS:

The liquidation of the Bank for International Settlements at the earliest possible moment.

## VII

## INTERNATIONAL ECONOMIC PROBLEMS

Whereas, in Article I of the Articles of Agreement of the International Monetary Fund it is stated that one of the principal purposes of the Fund is to facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy;

Whereas, it is recognized that the complete attainment of this and other purposes and objectives stated in the Agreement cannot be achieved through the instrumentality of the Fund alone; therefore

The United Nations Monetary and Financial Conference

## RECOMMENDS:

To the participating Governments that, in addition to implementing the specific monetary and financial measures which were the subject of this Conference, they seek, with a view to creating in the field of international economic relations conditions necessary for the attainment of the purposes of the Fund and of the broader primary objectives of economic policy, to reach agreement as soon as possible on ways and means whereby they may best:

(1) reduce obstacles to international trade and in other ways promote mutually advantageous international commercial relations;

(2) bring about the orderly marketing of staple commodities at prices fair to the producer and consumer alike;

(3) deal with the special problems of international concern which will arise from the cessation of production for war purposes; and

(4) facilitate by co-operative effort the harmonization of national policies of Member States designed to promote and maintain high levels of employment and progressively rising standards of living.

ARTICLES OF AGREEMENT OF THE INTERNATIONAL MONETARY FUND

The Governments on whose behalf the present Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

The International Monetary Fund is established and shall operate in accordance with the following provisions:

*Article I*

PURPOSES

The purposes of the International Monetary Fund are:

- (i) To promote international monetary co-operation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.
- (ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.
- (iii) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.
- (iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade.
- (v) To give confidence to members by making the Fund's resources available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.
- (vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.

The Fund shall be guided in all its decisions by the purposes set forth in this Article.

*Article II*

## MEMBERSHIP

## Section 1. Original members

The original members of the Fund shall be those of the countries represented at the United Nations Monetary and Financial Conference whose governments accept membership before the date specified in Article XX, Section 2(e).

## Section 2. Other members

Membership shall be open to the governments of other countries at such times and in accordance with such terms as may be prescribed by the Fund.

*Article III*

## QUOTAS AND SUBSCRIPTIONS

## Section 1. Quotas

Each member shall be assigned a quota. The quotas of the members represented at the United Nations Monetary and Financial Conference which accept membership before the date specified in Article XX, Section 2(e), shall be those set forth in Schedule A. The quotas of other members shall be determined by the Fund.

## Section 2. Adjustment of quotas

The Fund shall at intervals of five years review, and if it deems it appropriate propose an adjustment of, the quotas of the members. It may also, if it thinks fit, consider at any other time the adjustment of any particular quota at the request of the member concerned. A four-fifths majority of the total voting power shall be required for any change in quotas and no quota shall be changed without the consent of the member concerned.

## Section 3. Subscriptions: Time, place and form of payment

(a) The subscription of each member shall be equal to its quota and shall be paid in full to the Fund at the appropriate depository on or before the date when the member becomes eligible under Article XX, Section 4(c) or (d), to buy currencies from the Fund.

(b) Each member shall pay in gold, as a minimum, the smaller of

- (i) twenty-five per cent of its quota; or
- (ii) ten per cent of its net official holdings of gold and United States dollars as at the date when the Fund notifies members under Article XX, Section 4(a) that it will shortly be in a position to begin exchange transactions.

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Each member shall furnish to the Fund the data necessary to determine its net official holdings of gold and United States dollars.

(c) Each member shall pay the balance of its quota in its own currency.

(d) If the net official holdings of gold and United States dollars of any member as at the date referred in (b) (ii) above are not ascertainable because its territories have been occupied by the enemy, the Fund shall fix an appropriate alternative date for determining such holdings. If such date is later than that on which the country becomes eligible under Article XX, Section 4 (c) or (d), to buy currencies from the Fund, the Fund and the member shall agree on a provisional gold payment to be made under (b) above, and the balance of the member's subscription shall be paid in the member's currency, subject to appropriate adjustment between the member and the Fund when the net official holdings have been ascertained.

### **Section 4. Payments when quotas are changed**

(a) Each member which consents to an increase in its quota shall, within thirty days after the date of its consent, pay to the Fund twenty-five per cent of the increase in gold and the balance in its own currency. If, however, on the date when the member consents to an increase, its monetary reserves are less than its new quota, the Fund may reduce the proportion of the increase to be paid in gold.

(b) If a member consents to a reduction in its quota, the Fund shall, within thirty days after the date of the consent, pay to the member an amount equal to the reduction. The payment shall be made in the member's currency and in such amount of gold as may be necessary to prevent reducing the Fund's holdings of the currency below seventy-five per cent of the new quota.

### **Section 5. Substitution of securities for currency**

The Fund shall accept from any member in place of any part of the member's currency which in the judgement of the Fund is not needed for its operations, notes or similar obligations issued by the member or the depository designated by the member under Article XIII, Section 2, which shall be non-negotiable, non-interest bearing and payable at their par value on demand by crediting the account of the Fund in the designated depository. This Section shall apply not only to currency subscribed by members but also to any currency otherwise due to, or acquired by, the Fund.

*Article IV*

## PAR VALUES OF CURRENCIES

## Section 1. Expression of par values

(a) The par value of the currency of each member shall be expressed in terms of gold as a common denominator or in terms of the United States dollar of the weight and fineness in effect on July 1, 1944.

(b) All computations relating to currencies of members for the purpose of applying the provisions of this Agreement shall be on the basis of their par values.

## Section 2. Gold purchases based on par values

The Fund shall prescribe a margin above and below par value for transactions in gold by members, and no member shall buy gold at a price above par value plus the prescribed margin, or sell gold at a price below par value minus the prescribed margin.

## Section 3. Foreign exchange dealings based on parity

The maximum and the minimum rates for exchange transactions between the currencies of members taking place within their territories shall not differ from parity

- (i) in the case of spot exchange transactions, by more than one per cent; and
- (ii) in the case of other exchange transactions, by a margin which exceeds the margin for spot exchange transactions by more than the Fund considers reasonable.

## Section 4. Obligations regarding exchange stability

(a) Each member undertakes to collaborate with the Fund to promote exchange stability, to maintain orderly exchange arrangements with other members, and to avoid competitive exchange alterations.

(b) Each member undertakes, through appropriate measures consistent with this Agreement, to permit within its territories exchange transactions between its currency and the currencies of other members only within the limits prescribed under Section 3 of this Article. A member whose monetary authorities, for the settlement of international transactions, in fact freely buy and sell gold within the limits prescribed by the Fund under Section 2 of this Article shall be deemed to be fulfilling this undertaking.

## Section 5. Changes in par values

(a) A member shall not propose a change in the par value of its currency except to correct a fundamental disequilibrium.

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(b) A change in the par value of a member's currency may be made only on the proposal of the member and only after consultation with the Fund.

(c) When a change is proposed, the Fund shall first take into account the changes, if any, which have already taken place in the initial par value of the member's currency as determined under Article XX, Section 4. If the proposed change, together with all previous changes, whether increases or decreases,

- (i) does not exceed ten per cent of the initial par value, the Fund shall raise no objection,
- (ii) does not exceed a further ten per cent of the initial par value, the Fund may either concur or object, but shall declare its attitude within seventy-two hours if the member so requests,
- (iii) is not within (i) or (ii) above, the Fund may either concur or object, but shall be entitled to a longer period in which to declare its attitude.

(d) Uniform changes in par values made under Section 7 of this Article shall not be taken into account in determining whether a proposed change falls within (i), (ii), or (iii) of (c) above.

(e) A member may change the par value of its currency without the concurrence of the Fund if the change does not affect the international transactions of members of the Fund.

(f) The Fund shall concur in a proposed change which is within the terms of (c) (ii) or (c) (iii) above if it is satisfied that the change is necessary to correct a fundamental disequilibrium. In particular, provided it is so satisfied, it shall not object to a proposed change because of the domestic social or political policies of the member proposing the change.

### Section 6. Effect of unauthorized changes

If a member changes the par value of its currency despite the objection of the Fund, in cases where the Fund is entitled to object, the member shall be ineligible to use the resources of the Fund unless the Fund otherwise determines; and if, after the expiration of a reasonable period, the difference between the member and the Fund continues, the matter shall be subject to the provisions of Article XV, Section 2 (b).

### Section 7. Uniform changes in par values

Notwithstanding the provisions of Section 5 (b) of this Article, the Fund by a majority of the total voting power may make uniform proportionate changes in the par values of the currencies of all members, provided each such change is approved by every member which



has 10 per cent or more of the total of the quotas. The par value of a member's currency shall, however, not be changed under this provision if, within seventy-two hours of the Fund's action, the member informs the Fund that it does not wish the par value of its currency to be changed by such action.

#### Section 8. Maintenance of gold value of the Fund's assets

(a) The gold value of the Fund's assets shall be maintained notwithstanding changes in the par or foreign exchange value of the currency of any member.

(b) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Fund, depreciated to a significant extent within that member's territories, the member shall pay to the Fund within a reasonable time an amount of its own currency equal to the reduction in the gold value of its currency held by the Fund.

(c) Whenever the par value of a member's currency is increased, the Fund shall return to such member within a reasonable time an amount in its currency equal to the increase in the gold value of its currency held by the Fund.

(d) The provisions of this Section shall apply to a uniform proportionate change in the par values of the currencies of all members, unless at the time when such a change is proposed the Fund decides otherwise.

#### Section 9. Separate currencies within a member's territories

A member proposing a change in the par value of its currency shall be deemed, unless it declares otherwise, to be proposing a corresponding change in the par value of the separate currencies of all territories in respect of which it has accepted this agreement under Article XX, Section 2 (g). It shall, however, be open to a member to declare that its proposal relates either to the metropolitan currency alone, or only to one or more specified separate currencies, or to the metropolitan currency and one or more specified separate currencies.

### *Article V*

#### TRANSACTIONS WITH THE FUND

##### Section 1. Agencies dealing with the Fund

Each member shall deal with the Fund only through its Treasury, central bank, stabilization fund or other similar fiscal agency and the Fund shall deal only with or through the same agencies.

##### Section 2. Limitation on the Fund's operations

Except as otherwise provided in this Agreement, operations on the

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account of the Fund shall be limited to transactions for the purpose of supplying a member, on the initiative of such member, with the currency of another member in exchange for gold or for the currency of the member desiring to make the purchase.

### Section 3. Conditions governing use of the Fund's resources

(a) A member shall be entitled to buy the currency of another member from the Fund in exchange for its own currency subject to the following conditions:

- (i) The member desiring to purchase the currency represents that it is presently needed for making in that currency payments which are consistent with the provisions of this Agreement;
- (ii) The Fund has not given notice under Article VII, Section 3, that its holdings of the currency desired have become scarce;
- (iii) The proposed purchase would not cause the Fund's holdings of the purchasing member's currency to increase by more than twenty-five per cent of its quota during the period of twelve months ending on the date of the purchase nor to exceed two hundred per cent of its quota, but the twenty-five per cent limitation shall apply only to the extent that the Fund's holdings of the member's currency have been brought above seventy-five per cent of its quota if they had been below that amount;
- (iv) The Fund has not previously declared under Section 5 of this Article, Article IV, Section 6, Article VI, Section 1, or Article XV, Section 2 (a), that the member desiring to purchase is ineligible to use the resources of the Fund.

(b) A member shall not be entitled without the permission of the Fund to use the Fund's resources to acquire currency to hold against forward exchange transactions.

### Section 4. Waiver of conditions

The Fund may in its discretion, and on terms which safeguard its interests, waive any of the conditions prescribed in Section 3 (a) of this Article, especially in the case of members with a record of avoiding large or continuous use of the Fund's resources. In making a waiver it shall take into consideration periodic or exceptional requirements of the member requesting the waiver. The Fund shall also take into consideration a member's willingness to pledge as collateral security gold, silver, securities, or other acceptable assets having a value sufficient in the opinion of the Fund to protect its interests and may require as a condition of waiver the pledge of such collateral security.

### Section 5. Ineligibility to use the Fund's resources

Whenever the Fund is of the opinion that any member is using the resources of the Fund in a manner contrary to the purposes of the Fund, it shall present to the member a report setting forth the views of the Fund and prescribing a suitable time for reply. After presenting such a report to a member, the Fund may limit the use of its resources by the member. If no reply to the report is received from the member within the prescribed time, or if the reply received is unsatisfactory, the Fund may continue to limit the member's use of the Fund's resources or may, after giving reasonable notice to the member, declare it ineligible to use the resources of the Fund.

### Section 6. Purchases of currencies from the Fund for gold

(a) Any member desiring to obtain, directly or indirectly, the currency of another member for gold shall, provided that it can do so with equal advantage, acquire it by the sale of gold to the Fund.

(b) Nothing in this Section shall be deemed to preclude any member from selling in any market gold newly produced from mines located within its territories.

### Section 7. Repurchase by a member of its currency held by the Fund

(a) A member may repurchase from the Fund and the Fund shall sell for gold any part of the Fund's holdings of its currency in excess of its quota.

(b) At the end of each financial year of the Fund, a member shall repurchase from the Fund with gold or convertible currencies, as determined in accordance with Schedule B, part of the Fund's holdings of its currency under the following conditions:

- (i) Each member shall use in repurchases of its own currency from the Fund an amount of its monetary reserves equal in value to one-half of any increase that has occurred during the year in the Fund's holdings of its currency plus one-half of any increase, or minus one-half of any decrease, that has occurred during the year in the member's monetary reserves. This rule shall not apply when a member's monetary reserves have decreased during the year by more than the Fund's holdings of its currency have increased.
- (ii) If after the repurchase described in (i) above (if required) has been made, a member's holdings of another member's currency (or of gold acquired from that member) are found to have increased by reason of transactions in terms of that currency with other members or persons in their territories, the member whose holdings of such currency (or gold) have thus increased shall use the increase to repurchase its own currency from the Fund.

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(c) None of the adjustments described in (b) above shall be carried to a point at which

- (i) the member's monetary reserves are below its quota, or
- (ii) the Fund's holdings of its currency are below seventy-five per cent of its quota, or
- (iii) the Fund's holdings of any currency required to be used are above seventy-five per cent of the quota of the member concerned.

### Section 8. Charges

(a) Any member buying the currency of another member from the Fund in exchange for its own currency shall pay a service charge uniform for all members of three-fourths per cent in addition to the parity price. The Fund in its discretion may increase this service charge to not more than one per cent or reduce it to not less than one-half per cent.

(b) The Fund may levy a reasonable handling charge on any member buying gold from the Fund or selling gold to the Fund.

(c) The Fund shall levy charges uniform for all members which shall be payable by any member on the average daily balances of its currency held by the Fund in excess of its quota. These charges shall be at the following rates;

- (i) *On amounts not more than twenty-five per cent in excess of the quota:* no charge for the first three months; one-half per cent per annum for the next nine months; and thereafter an increase in the charge of one-half per cent for each subsequent year.
- (ii) *On amounts more than twenty-five per cent and not more than fifty per cent in excess of the quota:* an additional one-half per cent for the first year; and an additional one-half per cent for each subsequent year.
- (iii) *On each additional bracket of twenty-five per cent in excess of the quota:* an additional one-half per cent for the first year; and an additional one-half per cent for each subsequent year.

(d) Whenever the Fund's holdings of a member's currency are such that the charge applicable to any bracket for any period has reached the rate of four per cent per annum, the Fund and the member shall consider means by which the Fund's holdings of the currency can be reduced. Thereafter, the charges shall rise in accordance with the provisions of (c) above until they reach five per cent and failing agreement, the Fund may then impose such charges as it deems appropriate.

(e) The rates referred to in (c) and (d) above may be changed by a three-fourths majority of the total voting power.

(f) All charges shall be paid in gold. If, however, the member's monetary reserves are less than one-half of its quota, it shall pay in gold only that proportion of the charges due which such reserves bear to one-half of its quota, and shall pay the balance in its own currency.

### *Article VI*

#### CAPITAL TRANSFERS

##### Section 1. Use of the Fund's resources for capital transfers

(a) A member may not make net use of the Fund's resources to meet a large or sustained outflow of capital, and the Fund may request a member to exercise controls to prevent such use of the resources of the Fund. If, after receiving such a request, a member fails to exercise appropriate controls, the Fund may declare the member ineligible to use the resources of the Fund.

(b) Nothing in this Section shall be deemed

- (i) to prevent the use of the resources of the Fund for capital transactions of reasonable amount required for the expansion of exports or in the ordinary course of trade, banking or other business, or
- (ii) to affect capital movements which are met out of a member's own resources of gold and foreign exchange, but members undertake that such capital movements will be in accordance with the purposes of the Fund.

##### Section 2. Special provisions for capital transfers

If the Fund's holdings of the currency of a member have remained below seventy-five per cent of its quota for an immediately preceding period of not less than six months, such member, if it has not been declared ineligible to use the resources of the Fund under Section 1 of this Article, Article IV, Section 6, Article V, Section 5, or Article XV, Section 2 (a), shall be entitled, notwithstanding the provisions of Section 1 (a) of this Article, to buy the currency of another member from the Fund with its own currency for any purpose, including capital transfers. Purchases for capital transfers under this Section shall not, however, be permitted if they have the effect of raising the Fund's holdings of the currency of the member desiring to purchase above seventy-five per cent of its quota, or of reducing the Fund's holdings of the currency desired below seventy-five per cent of the quota of the member whose currency is desired.

##### Section 3. Controls of capital transfers

Members may exercise such controls as are necessary to regulate international capital movements, but no member may exercise these

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controls in a manner which will restrict payments for current transactions or which will unduly delay transfers of funds in settlement of commitments, except as provided in Article VII, Section 3 (b), and in Article XIV, Section 2.

### *Article VII*

#### SCARCE CURRENCIES

##### Section 1. General scarcity of currency

If the Fund finds that a general scarcity of a particular currency is developing, the Fund may so inform members and may issue a report setting forth the causes of the scarcity and containing recommendations designed to bring it to an end. A representative of the member whose currency is involved shall participate in the preparation of the report.

##### Section 2. Measures to replenish the Fund's holdings of scarce currencies

The Fund may, if it deems such action appropriate to replenish its holdings of any member's currency, take either or both of the following steps:

- (i) Propose to the member that, on terms and conditions agreed between the Fund and the member, the latter lend its currency to the Fund or that, with the approval of the member, the Fund borrow such currency from some other source either within or outside the territories of the member, but no member shall be under any obligation to make such loans to the Fund or to approve the borrowing of its currency by the Fund from any other source.
- (ii) Require the member to sell its currency to the Fund for gold.

##### Section 3. Scarcity of the Fund's holdings

(a) If it becomes evident to the Fund that the demand for a member's currency seriously threatens the Fund's ability to supply that currency, the Fund, whether or not it has issued a report under Section 1 of this Article, shall formally declare such currency scarce and shall thenceforth apportion its existing and accruing supply of the scarce currency with due regard to the relative needs of members, the general international economic situation and any other pertinent considerations. The Fund shall also issue a report concerning its action.

(b) A formal declaration under (a) above shall operate as an authorization to any member, after consultation with the Fund, temporarily to impose limitations on the freedom of exchange

operations in the scarce currency. Subject to the provisions of Article IV, Sections 3 and 4, the member shall have complete jurisdiction in determining the nature of such limitations, but they shall be no more restrictive than is necessary to limit the demand for the scarce currency to the supply held by, or accruing to, the member in question; and they shall be relaxed and removed as rapidly as conditions permit.

(c) The authorization under (b) above shall expire whenever the Fund formally declares the currency in question to be no longer scarce.

#### Section 4. Administration of restrictions

Any member imposing restrictions in respect of the currency of any other member pursuant to the provisions of Section 3 (b) of this Article shall give sympathetic consideration to any representations by the other member regarding the administration of such restrictions.

#### Section 5. Effect of other international agreements on restrictions

Members agree not to invoke the obligations of any engagements entered into with other members prior to this Agreement in such a manner as will prevent the operation of the provisions of this Article.

### *Article VIII*

#### GENERAL OBLIGATIONS OF MEMBERS

##### Section 1. Introduction

In addition to the obligations assumed under other articles of this Agreement, each member undertakes the obligations set out in this Article.

##### Section 2. Avoidance of restrictions on current payments

(a) Subject to the provisions of Article VII, Section 3 (b), and Article XIV, Section 2, no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.

(b) Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member. In addition, members may, by mutual accord, co-operate in measures for the purpose of making the exchange control regulations of either member more effective, provided that such measures and regulations are consistent with this Agreement.

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### **Section 3. Avoidance of discriminatory currency practices**

No member shall engage in, or permit any of its fiscal agencies referred to in Article V, Section 1, to engage in, any discriminatory currency arrangements or multiple currency practices except as authorized under this Agreement or approved by the Fund. If such arrangements and practices are engaged in at the date when this Agreement enters into force the member concerned shall consult with the Fund as to their progressive removal unless they are maintained or imposed under Article XIV, Section 2, in which case the provisions of Section 4 of that Article shall apply.

### **Section 4. Convertibility of foreign held balances**

(a) Each member shall buy balances of its currency held by another member if the latter, in requesting the purchase, represents

- (i) that the balances to be bought have been recently acquired as a result of current transactions; or
- (ii) that their conversion is needed for making payments for current transactions.

The buying member shall have the option to pay either in the currency of the member making the request or in gold.

(b) The obligation in (a) above shall not apply

- (i) when the convertibility of the balances has been restricted consistently with Section 2 of this Article, or Article VI, Section 3; or
- (ii) when the balances have accumulated as a result of transactions effected before the removal by a member of restrictions maintained or imposed under Article XIV, Section 2.
- (iii) When the balances have been acquired contrary to the exchange regulations of the member which is asked to buy them; or
- (iv) When the currency of the member requesting the purchase has been declared scarce under Article VII, Section 3 (a); or
- (v) When the member requested to make the purchase is for any reason not entitled to buy currencies of other members from the Fund for its own currency.

### **Section 5. Furnishing of information**

(a) The Fund may require members to furnish it with such information as it deems necessary for its operations, including, as the minimum necessary for the effective discharge of the Fund's duties, national data on the following matters:



- (i) Official holdings at home and abroad, of (1) gold, (2) foreign exchange.
- (ii) Holdings at home and abroad by banking and financial agencies, other than official agencies, of (1) gold, (2) foreign exchange.
- (iii) Production of gold.
- (iv) Gold exports and imports according to countries of destination and origin.
- (v) Total exports and imports of merchandise, in terms of local currency values, according to countries of destination and origin.
- (vi) International balance of payments, including (1) trade in goods and services, (2) gold transactions, (3) known capital transactions, and (4) other items.
- (vii) International investment position, *i.e.*, investments within the territories of the member owned abroad and investments abroad owned by persons in its territories so far as it is possible to furnish this information.
- (viii) National income.
- (ix) Price indices, *i.e.*, indices of commodity prices in wholesale and retail markets and of export and import prices.
- (x) Buying and selling rates for foreign currencies.
- (xi) Exchange controls, *i.e.*, a comprehensive statement of exchange controls in effect at the time of assuming membership in the Fund and details of subsequent changes as they occur.
- (xii) Where official clearing arrangements exist, details of amounts awaiting clearance in respect of commercial and financial transactions, and of the length of time during which such arrears have been outstanding.

(b) In requesting information the Fund shall take into consideration the varying ability of members to furnish the data requested. Members shall be under no obligation to furnish information in such detail that the affairs of individuals or corporations are disclosed. Members undertake, however, to furnish the desired information in as detailed and accurate a manner as is practicable, and, so far as possible, to avoid mere estimates.

(c) The Fund may arrange to obtain further information by agreement with members. It shall act as a centre for the collection and exchange of information on monetary and financial problems, thus facilitating the preparation of studies designed to assist members in developing policies which further the purposes of the Fund.

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### **Section 6. Consultation between members regarding existing international agreements**

Where under this Agreement a member is authorized in the special or temporary circumstances specified in the Agreement to maintain or establish restrictions on exchange transactions, and there are other engagements between members entered into prior to this Agreement which conflict with the application of such restrictions, the parties to such engagements will consult with one another with a view to making such mutually acceptable adjustments as may be necessary. The provisions of this Article shall be without prejudice to the operation of Article VII, Section 5.

## *Article IX*

### **STATUS, IMMUNITIES AND PRIVILEGES**

#### **Section 1. Purposes of Article**

To enable the Fund to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

#### **Section 2. Status of the Fund**

The Fund shall possess full juridical personality, and, in particular, the capacity:

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

#### **Section 3. Immunity from judicial process**

The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

#### **Section 4. Immunity from other action**

Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

#### **Section 5. Immunity of archives**

The archives of the Fund shall be inviolable.

#### **Section 6. Freedom of assets from restrictions**

To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature.

## Section 7. Privilege for communications

The official communications of the Fund shall be accorded by members the same treatment as the official communications of other members.

## Section 8. Immunities and privileges of officers and employees

All governors, executive directors, alternates, officers and employees of the Fund

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity.
- (ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members.
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

## Section 9. Immunities from taxation

(a) The Fund, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held

- (i) which discriminates against such obligation or security solely because of its origin; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

## Section 10. Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Fund of the detailed action which it has taken.

*Article X*

**RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS**

The Fund shall co-operate within the terms of this Agreement with any general international organization and with public international organizations having specialized responsibilities in related fields. Any arrangements for such co-operation which would involve a modification of any provision of this Agreement may be effected only after amendment to this Agreement under Article XVII.

*Article XI*

**RELATIONS WITH NON-MEMBER COUNTRIES**

**Section 1. Undertakings regarding relations with non-member countries**

Each member undertakes:

- (i) Not to engage in, nor to permit any of its fiscal agencies referred to in Article V, Section 1, to engage in, any transactions with a non-member or with persons in a non-member's territories which would be contrary to the provisions of this Agreement or the purposes of the Fund;
- (ii) Not to co-operate with a non-member or with persons in a non-member's territories in practices which would be contrary to the provisions of this Agreement or the purposes of the Fund; and
- (iii) To co-operate with the Fund with a view to the application in its territories of appropriate measures to prevent transactions with non-members or with persons in their territories which would be contrary to the provisions of this Agreement or the purposes of the Fund.

**Section 2. Restrictions on transactions with non-member countries**

Nothing in this Agreement shall affect the right of any member to impose restrictions on exchange transactions with non-members or with persons in their territories unless the Fund finds that such restrictions prejudice the interests of members and are contrary to the purposes of the Fund.

*Article XII*

**ORGANIZATION AND MANAGEMENT**

**Section 1. Structure of the Fund**

The Fund shall have a Board of Governors, Executive Directors, a Managing Director and a staff.

## Section 2. Board of Governors

(a) All powers of the Fund shall be vested in the Board of Governors, consisting of one governor and one alternate appointed by each member in such manner as it may determine. Each governor and each alternate shall serve for five years, subject to the pleasure of the member appointing him, and may be reappointed. No alternate may vote except in the absence of his principal. The Board shall select one of the governors as chairman.

(b) The Board of Governors may delegate to the Executive Directors authority to exercise any powers of the Board, except the power to:

- (i) Admit new members and determine the conditions of their admission.
- (ii) Approve a revision of quotas.
- (iii) Approve a uniform change in the par value of the currencies of all members.
- (iv) Make arrangements to co-operate with other international organizations (other than informal arrangements of a temporary or administrative character).
- (v) Determine the distribution of the net income of the Fund.
- (vi) Require a member to withdraw.
- (vii) Decide to liquidate the Fund.
- (viii) Decide appeals from interpretations of this Agreement given by the Executive Directors.

(c) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board or called by the Executive Directors. Meetings of the Board shall be called by the Directors whenever requested by five members or by members having one quarter of the total voting power.

(d) A quorum for any meeting of the Board of Governors shall be a majority of the governors exercising not less than two-thirds of the total voting power.

(e) Each governor shall be entitled to cast the number of votes allotted under Section 5 of this Article to the member appointing him.

(f) The Board of Governors may by regulation establish a procedure whereby the Executive Directors, when they deem such action to be in the best interests of the Fund, may obtain a vote of the governors on a specific question without calling a meeting of the Board.

(g) The Board of Governors, and the Executive Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Fund.

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(h) Governors and alternates shall serve as such without compensation from the Fund, but the Fund shall pay them reasonable expenses incurred in attending meetings.

(i) The Board of Governors shall determine the remuneration to be paid to the Executive Directors and the salary and terms of the contract of service of the Managing Director.

### Section 3. Executive Directors

(a) The Executive Directors shall be responsible for the conduct of the general operations of the Fund, and for this purpose shall exercise all the powers delegated to them by the Board of Governors.

(b) There shall be not less than twelve directors who need not be governors, and of whom

- (i) Five shall be appointed by the five members having the largest quotas;
- (ii) Not more than two shall be appointed when the provisions of (c) below apply;
- (iii) Five shall be elected by the members not entitled to appoint directors, other than the American Republics; and
- (iv) Two shall be elected by the American Republics not entitled to appoint directors.

For the purposes of this paragraph, members means governments of countries whose names are set forth in Schedule A, whether they become members in accordance with Article XX or in accordance with Article II, Section 2. When governments of other countries become members, the Board of Governors may, by a four-fifth majority of the total voting power, increase the number of directors to be elected.

(c) If, at the second regular election of directors and thereafter, the members entitled to appoint directors under (b) (i) above do not include the two members, the holdings of whose currencies by the Fund have been, on the average over the preceding two years, reduced below their quotas by the largest absolute amounts in terms of gold as a common denominator, either one or both of such members, as the case may be, shall be entitled to appoint a director.

(d) Subject to Article XX, Section 3 (b), elections of elective directors shall be conducted at intervals of two years in accordance with the provisions of Schedule C, supplemented by such regulations as the Fund deems appropriate. Whenever the Board of Governors increases the number of directors to be elected under (b) above, it shall issue regulations making appropriate changes in the proportion of votes required to elect directors under the provisions of Schedule C.

(e) Each director shall appoint an alternate with full power to act for him when he is not present. When the directors appointing them are present, alternates may participate in meetings but may not vote.

(f) Directors shall continue in office until their successors are appointed or elected. If the office of an elected director becomes vacant more than ninety days before the end of his term, another director shall be elected for the remainder of the term by the members who elected the former director. A majority of the votes cast shall be required for election. While the office remains vacant, the alternate of the former director shall exercise his powers, except that of appointing an alternate.

(g) The Executive Directors shall function in continuous session at the principal office of the Fund and shall meet as often as the business of the Fund may require.

(h) A quorum for any meeting of the Executive Directors shall be a majority of the directors representing not less than one-half of the voting power.

(i) Each appointed director shall be entitled to cast the number of votes allotted under Section 5 of this Article to the member appointing him. Each elected director shall be entitled to cast the number of votes which counted towards his election. When the provisions of Section 5 (b) of this Article are applicable, the votes which a director would otherwise be entitled to cast shall be increased or decreased correspondingly. All the votes which a director is entitled to cast shall be cast as a unit.

(j) The Board of Governors shall adopt regulations under which a member not entitled to appoint a director under (b) above may send a representative to attend any meeting of the Executive Directors when a request made by, or a matter particularly affecting, that member is under consideration.

(k) The Executive Directors may appoint such committees as they deem advisable. Membership of committees need not be limited to governors or directors or their alternates.

#### Section 4. Managing Director and staff

(a) The Executive Directors shall select a Managing Director who shall not be a governor or an executive director. The Managing Director shall be chairman of the Executive Directors, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors, but shall not vote at such meetings. The Managing Director shall cease to hold office when the Executive Directors so decide.

(b) The Managing Director shall be chief of the operating staff of the Fund and shall conduct, under the direction of the Executive

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Directors, the ordinary business of the Fund. Subject to the general control of the Executive Directors, he shall be responsible for the organization, appointment and dismissal of the staff of the Fund.

(c) The Managing Director and the staff of the Fund, in the discharge of their functions, shall owe their duty entirely to the Fund and to no other authority. Each member of the Fund shall respect the international character of this duty and shall refrain from all attempts to influence any of the staff in the discharge of his functions.

(d) In appointing the staff the Managing Director shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

### Section 5. Voting

(a) Each member shall have two hundred and fifty votes plus one additional vote for each part of its quota equivalent to one hundred thousand United States dollars.

(b) Whenever voting is required under Article V, Section 4 or 5, each member shall have the number of votes to which it is entitled under (a) above, adjusted:

- (i) by the addition of one vote for the equivalent of each 400,000 United States dollars of net sales of its currency up to the date when the vote is taken, or
- (ii) by the subtraction of one vote for the equivalent of each 400,000 United States dollars of its net purchases of the currencies of other members up to the date when the vote is taken

provided, that neither net purchases nor net sales shall be deemed at any time to exceed an amount equal to the quota of the member involved.

(c) For the purpose of all computations under this Section, United States dollars shall be deemed to be of the weight and fineness in effect on July 1, 1944, adjusted for any uniform change under Article IV, Section 7, if a waiver is made under Section 8 (d) of that Article.

(d) Except as otherwise specifically provided, all decisions of the Fund shall be made by a majority of the votes cast.

### Section 6. Distribution of net income

(a) The Board of Governors shall determine annually what part of the Fund's net income shall be placed to reserve and what part, if any, shall be distributed.

(b) If any distribution is made, there shall first be distributed a two per cent non-cumulative payment to each member on the



amount by which seventy-five per cent of its quota exceeded the Fund's average holdings of its currency during that year. The balance shall be paid to all members in proportion to their quotas. Payments to each member shall be made in its own currency.

#### Section 7. Publication of reports

(a) The Fund shall publish an annual report containing an audited statement of its accounts, and shall issue, at intervals of three months or less, a summary statement of its transactions and its holdings of gold and currencies of members.

(b) The Fund may publish such other reports as it deems desirable for carrying out its purposes.

#### Section 8. Communication of views to members

The Fund shall at all times have the right to communicate its views informally to any member on any matter arising under this Agreement. The Fund may, by a two-thirds majority of the total voting power, decide to publish a report made to a member regarding its monetary or economic conditions and developments which directly tend to produce a serious disequilibrium in the international balance of payments of members. If the member is not entitled to appoint an executive director, it shall be entitled to representation in accordance with Section 3 (j) of this Article. The Fund shall not publish a report involving changes in the fundamental structure of the economic organization of members.

### *Article XIII*

#### OFFICES AND DEPOSITORIES

##### Section 1. Location of offices

The principal office of the Fund shall be located in the territory of the member having the largest quota, and agencies or branch offices may be established in the territories of other members.

##### Section 2. Depositories

(a) Each member country shall designate its central bank as a depository for all the Fund's holdings of its currency, or if it has no central bank it shall designate such other institution as may be acceptable to the Fund.

(b) The Fund may hold other assets, including gold, in the depositories designated by the five members having the largest quotas and in such other designated depositories as the Fund may select. Initially, at least one half of the holdings of the Fund shall be held in the depository designated by the member in whose territories the

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Fund has its principal office and at least forty per cent shall be held in the depositories designated by the remaining four members referred to above. However, all transfers of gold by the Fund shall be made with due regard to the costs of transport and anticipated requirements of the Fund. In an emergency the Executive Directors may transfer all or any part of the Fund's gold holdings to any place where they can be adequately protected.

### **Section 3. Guarantee of the Fund's assets**

Each member guarantees all assets of the Fund against loss resulting from failure or default on the part of the depository designated by it.

## *Article XIV*

### **TRANSITIONAL PERIOD**

#### **Section 1. Introduction**

The Fund is not intended to provide facilities for relief or reconstruction or to deal with international indebtedness arising out of the war.

#### **Section 2. Exchange restrictions**

In the post-war transitional period members may, notwithstanding the provisions of any other articles of this Agreement, maintain and adapt to changing circumstances (and, in the case of members whose territories have been occupied by the enemy, introduce where necessary) restrictions on payments and transfers for current international transactions. Members shall, however, have continuous regard in their foreign exchange policies to the purposes of the Fund; and, as soon as conditions permit, they shall take all possible measures to develop such commercial and financial arrangements with other members as will facilitate international payments and the maintenance of exchange stability. In particular, members shall withdraw restrictions maintained or imposed under this Section as soon as they are satisfied that they will be able, in the absence of such restrictions, to settle their balance of payments in a manner which will not unduly encumber their access to the resources of the Fund.

#### **Section 3. Notification to the Fund**

Each member shall notify the Fund before it becomes eligible under Article XX, Section 4 (c) or (d) to buy currency from the Fund, whether it intends to avail itself of the transitional arrangements in Section 2 of this Article, or whether it is prepared to accept the obligations of Article VIII, Sections 2, 3 and 4. A member

availing itself of the transitional arrangements shall notify the Fund as soon thereafter as it is prepared to accept the above-mentioned obligations.

#### Section 4. Action of the Fund relating to restrictions

Not later than three years after the date on which the Fund begins operations and in each year thereafter, the Fund shall report on the restrictions still in force under Section 2 of this Article. Five years after the date on which the Fund begins operations, and in each year thereafter, any member still retaining any restrictions inconsistent with Article VIII, Sections 2, 3, or 4, shall consult the Fund as to their further retention. The Fund may, if it deems such action necessary in exceptional circumstances, make representations to any member that conditions are favourable for the withdrawal of any particular restriction, or for the general abandonment of restrictions, inconsistent with the provisions of any other articles of this Agreement. The member shall be given a suitable time to reply to such representations. If the Fund finds that the member persists in maintaining restrictions which are inconsistent with the purposes of the Fund, the member shall be subject to Article XV, Section 2 (a).

#### Section 5. Nature of transitional period

In its relations with members, the Fund shall recognize that the post-war transitional period will be one of change and adjustment and in making decisions on requests occasioned thereby which are presented by any member it shall give the member the benefit of any reasonable doubt.

### *Article XV*

#### WITHDRAWAL FROM MEMBERSHIP

##### Section 1. Right of members to withdraw

Any member may withdraw from the Fund at any time by transmitting a notice in writing to the Fund at its principal office. Withdrawal shall become effective on the date such notice is received.

##### Section 2. Compulsory withdrawal

(a) If a member fails to fulfill any of its obligations under this Agreement, the Fund may declare the member ineligible to use the resources of the Fund. Nothing in this Section shall be deemed to limit the provisions of Article IV, Section 6, Article V, Section 5, or Article VI, Section 1.

(b) If, after the expiration of a reasonable period the member persists in its failure to fulfil any of its obligations under this Agreement,

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or a difference between a member and the Fund under Article IV, Section 6, continues, that member may be required to withdraw from membership in the Fund by a decision of the Board of Governors carried by a majority of the governors representing a majority of the total voting power.

(c) Regulations shall be adopted to ensure that before action is taken against any member under (a) or (b) above, the member shall be informed in reasonable time of the complaint against it and given an adequate opportunity for stating its case, both orally and in writing.

### Section 3. Settlement of accounts with members withdrawing

When a member withdraws from the Fund, normal transactions of the Fund in its currency shall cease and settlement of all accounts between it and the Fund shall be made with reasonable despatch by agreement between it and the Fund. If agreement is not reached promptly, the provisions of Schedule D shall apply to the settlement of accounts.

## *Article XVI*

### EMERGENCY PROVISIONS

#### Section 1. Temporary Suspension

(a) In the event of an emergency or the development of unforeseen circumstances threatening the operations of the Fund, the Executive Directors by unanimous vote may suspend for a period of not more than one hundred and twenty days the operation of any of the following provisions:

- (i) Article IV, Sections 3 and 4 (b).
- (ii) Article V, Sections 2, 3, 7, 8 (a) and (e).
- (iii) Article VI, Section 2.
- (iv) Article XI, Section 1.

(b) Simultaneously with any decision to suspend the operation of any of the foregoing provisions, the Executive Directors shall call a meeting of the Board of Governors for the earliest practicable date.

(c) The Executive Directors may not extend any suspension beyond one hundred and twenty days. Such suspension may be extended, however, for an additional period of not more than two hundred and forty days, if the Board of Governors by a four-fifths majority of the total voting power so decides, but it may not be further extended except by amendment of this Agreement pursuant to Article XVII.

(d) The Executive Directors may, by a majority of the total voting power, terminate such suspension at any time.

## Section 2. Liquidation of the Fund

(a) The Fund may not be liquidated except by decision of the Board of Governors. In an emergency, if the Executive Directors decide that liquidation of the Fund may be necessary, they may temporarily suspend all transactions, pending decision by the Board.

(b) If the Board of Governors decides to liquidate the Fund, the Fund shall forthwith cease to engage in any activities except those incidental to the orderly collection and liquidation of its assets and the settlement of its liabilities, and all obligations of members under this Agreement shall cease except those set out in this Article, in Article XVIII, paragraph (c), in Schedule D, paragraph 7, and in Schedule E.

(c) Liquidation shall be administered in accordance with the provisions of Schedule E.

### *Article XVII*

#### AMENDMENTS

(a) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a governor or the Executive Directors, shall be communicated to the chairman of the Board of Governors who shall bring the proposal before the Board. If the proposed amendment is approved by the Board the Fund shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members, having four-fifths of the total voting power, have accepted the proposed amendment, the Fund shall certify the fact by a formal communication addressed to all members.

(b) Notwithstanding (a) above, acceptance by all members is required in the case of any amendment modifying

- (i) the right to withdraw from the Fund (Article XV, Section 1);
- (ii) the provision that no change in a member's quota shall be made without its consent (Article III, Section 2);
- (iii) the provision that no change may be made in the par value of a member's currency except on the proposal of that member (Article IV, Section 5 (b)).

(c) Amendments shall enter into force for all members three months after the date of the formal communication unless a shorter period is specified in the circular letter or telegram.

### *Article XVIII*

#### INTERPRETATION

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Fund or between any members of the Fund shall be submitted to the Executive Directors

for their decision. If the question particularly affects any member not entitled to appoint an executive director it shall be entitled to representation in accordance with Article XII, Section 3 (j).

(b) In any case where the Executive Directors have given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board the Fund may, so far as it deems necessary, act on the basis of the decision of the Executive Directors.

(c) Whenever a disagreement arises between the Fund and a member which has withdrawn, or between the Fund and any member during the liquidation of the Fund, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Fund, another by the member or withdrawing member and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the Permanent Court of International Justice or such other authority as may have been prescribed by regulation adopted by the Fund. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

### *Article XIX*

#### EXPLANATION OF TERMS

In interpreting the provisions of this Agreement the Fund and its members shall be guided by the following:

(a) A member's monetary reserves means its net official holdings of gold, of convertible currencies of other members, and of the currencies of such non-members as the Fund may specify.

(b) The official holdings of a member means central holdings (that is, the holdings of its Treasury, central bank, stabilization fund, or similar fiscal agency).

(c) The holdings of other official institutions or other banks within its territories may, in any particular case, be deemed by the Fund, after consultation with the member, to be official holdings to the extent that they are substantially in excess of working balances; provided that for the purpose of determining whether, in a particular case, holdings are in excess of working balances, there shall be deducted from such holdings amounts of currency due to official institutions and banks in the territories of members or non-members specified under (d) below.

(d) A member's holdings of convertible currencies means its holdings of the currencies of other members which are not availing themselves of the transitional arrangements under Article XIV,

Section 2, together with its holdings of the currencies of such non-members as the Fund may from time to time specify. The term currency for this purpose includes without limitation coins, paper money, bank balances, bank acceptances, and government obligations issued with a maturity not exceeding twelve months.

(e) A member's monetary reserves shall be calculated by deducting from its central holdings the currency liabilities to the Treasuries, central banks, stabilization funds, or similar fiscal agencies of other members or non-members specified under (d) above, together with similar liabilities to other official institutions and other banks in the territories of members, or non-members specified under (d) above. To these net holdings shall be added the sums deemed to be official holdings of other official institutions and other banks under (c) above.

(f) The Fund's holdings of the currency of a member shall include any securities accepted by the Fund under Article III, Section 5.

(g) The Fund, after consultation with a member which is availing itself of the transitional arrangements under Article XIV, Section 2, may deem holdings of the currency of that member which carry specified rights of conversion into another currency or into gold to be holdings of convertible currency for the purpose of the calculation of monetary reserves.

(h) For the purpose of calculating gold subscriptions under Article III, Section 3, a member's net official holdings of gold and United States dollars shall consist of its official holdings of gold and United States currency after deducting central holdings of its currency by other countries and holdings of its currency by other official institutions and other banks if these holdings carry specified rights of conversion into gold or United States currency.

(i) Payments for current transactions means payments which are not for the purpose of transferring capital, and includes, without limitation:

1. All payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities;
2. Payments due as interest on loans and as net income from other investments;
3. Payments of moderate amount for amortization of loans or for depreciation of direct investments;
4. Moderate remittances for family living expenses.

The Fund may, after consultation with the members concerned, determine whether certain specific transactions are to be considered current transactions or capital transactions.

*Article XX*

FINAL PROVISIONS

Section 1. Entry into force

This Agreement shall enter into force when it has been signed on behalf of governments having sixty-five per cent of the total of the quotas set forth in Schedule A and when the instruments referred to in Section 2 (a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before May 1, 1945.

Section 2. Signature

(a) Each government on whose behalf this Agreement is signed shall deposit with the Government of the United States of America an instrument setting forth that it has accepted this Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(b) Each government shall become a member of the Fund as from the date of the deposit on its behalf of the instrument referred to in (a) above, except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

(c) The Government of the United States of America shall inform the governments of all countries whose names are set forth in Schedule A, and all governments whose membership is approved in accordance with Article II, Section 2, of all signatures of this Agreement and of the deposit of all instruments referred to in (a) above.

(d) At the time this Agreement is signed on its behalf, each government shall transmit to the Government of the United States of America one one-hundredth of one per cent of its total subscription in gold or United States dollars for the purpose of meeting administrative expenses of the Fund. The Government of the United States of America shall hold such funds in a special deposit account and shall transmit them to the Board of Governors of the Fund when the initial meeting has been called under Section 3 of this Article. If this Agreement has not come into force by December 31, 1945, the Government of the United States of America shall return such funds to the governments that transmitted them.

(e) This Agreement shall remain open for signature at Washington on behalf of the governments of the countries whose names are set forth in Schedule A until December 31, 1945.

(f) After December 31, 1945, this Agreement shall be open for signature on behalf of the government of any country whose membership has been approved in accordance with Article II, Section 2.



(g) By their signature of this Agreement, all governments accept it both on their own behalf and in respect of all their colonies, overseas territories, all territories under their protection, suzerainty, or authority and all territories in respect of which they exercise a mandate.

(h) In the case of governments whose metropolitan territories have been under enemy occupation, the deposit of the instrument referred to in (a) above may be delayed until one hundred and eighty days after the date on which these territories have been liberated. If, however, it is not deposited by any such government before the expiration of this period the signature affixed on behalf of that government shall become void and the portion of its subscription paid under (d) above shall be returned to it.

(i) Paragraphs (d) and (h) shall come into force with regard to each signatory government as from the date of its signature.

### Section 3. Inauguration of the Fund

(a) As soon as this Agreement enters into force under Section 1 of this Article, each member shall appoint a governor and the member having the largest quota shall call the first meeting of the Board of Governors.

(b) At the first meeting of the Board of Governors, arrangements shall be made for the selection of provisional executive directors. The governments of the five countries for which the largest quotas are set forth in Schedule A shall appoint provisional executive directors. If one or more of such governments have not become members, the executive directorships they would be entitled to fill shall remain vacant until they become members, or until January 1, 1946, whichever is the earlier. Seven provisional executive directors shall be elected in accordance with the provisions of Schedule B and shall remain in office until the date of the first regular election of executive directors which shall be held as soon as practicable after January 1, 1946.

(c) The Board of Governors may delegate to the provisional executive directors any powers except those which may not be delegated to the Executive Directors.

### Section 4. Initial determination of par values

(a) When the Fund is of the opinion that it will shortly be in a position to begin exchange transactions, it shall so notify the members and shall request each member to communicate within thirty days the par value of its currency based on the rates of exchange prevailing on the sixtieth day before the entry into force of this Agreement. No member whose metropolitan territory has been occupied by the enemy shall be required to make such a communica-

tion while that territory is a theatre of major hostilities or for such period thereafter as the Fund may determine. When such a member communicates the par value of its currency the provisions of (d) below shall apply.

(b) The par value communicated by a member whose metropolitan territory has not been occupied by the enemy shall be the par value of that member's currency for the purposes of this Agreement unless, within ninety days after the request referred to in (a) above has been received, (i) the member notifies the Fund that it regards the par value as unsatisfactory, or (ii) the Fund notifies the member that in its opinion the par value cannot be maintained without causing recourse to the Fund on the part of that member or others on a scale prejudicial to the Fund and to members. When notification is given under (i) or (ii) above, the Fund and the member shall, within a period determined by the Fund in the light of all relevant circumstances, agree upon a suitable par value for that currency. If the Fund and the member do not agree within the period so determined, the member shall be deemed to have withdrawn from the Fund on the date when the period expires.

(c) When the par value of a member's currency has been established under (b) above, either by the expiration of ninety days without notification, or by agreement after notification, the member shall be eligible to buy from the Fund the currencies of other members to the full extent permitted in this Agreement, provided that the Fund has begun exchange transactions.

(d) In the case of a member whose metropolitan territory has been occupied by the enemy, the provisions of (b) above shall apply, subject to the following modifications:

- (i) The period of ninety days shall be extended so as to end on a date to be fixed by agreement between the Fund and the member.
- (ii) Within the extended period the member may, if the Fund has begun exchange transactions, buy from the Fund with its currency the currencies of other members, but only under such conditions and in such amounts as may be prescribed by the Fund.
- (iii) At any time before the date fixed under (i) above, changes may be made by agreement with the Fund in the par value communicated under (a) above.

(e) If a member whose metropolitan territory has been occupied by the enemy adopts a new monetary unit before the date to be fixed under (d) (i) above, the par value fixed by that member for the new unit shall be communicated to the Fund and the provisions of (d) above shall apply.

(f) Changes in par values agreed with the Fund under this Section shall not be taken into account in determining whether a proposed change falls within (i), (ii) or (iii) of Article IV, Section 5 (c).

(g) A member communicating to the Fund a par value for the currency of its metropolitan territory shall simultaneously communicate a value, in terms of that currency, for each separate currency, where such exists, in the territories in respect of which it has accepted this Agreement under Section 2 (g) of this Article, but no member shall be required to make a communication for the separate currency of a territory which has been occupied by the enemy while that territory is a theatre of major hostilities or for such period thereafter as the Fund may determine. On the basis of the par value so communicated, the Fund shall compute the par value of each separate currency. A communication or notification to the Fund under (a), (b) or (d) above regarding the par value of a currency, shall also be deemed, unless the contrary is stated, to be a communication or notification regarding the par value of all the separate currencies referred to above. Any member may, however, make a communication or notification relating to the metropolitan or any of the separate currencies alone. If the member does so, the provisions of the preceding paragraphs (including (d) above, if a territory where a separate currency exists has been occupied by the enemy) shall apply to each of these currencies separately.

(h) The Fund shall begin exchange transactions at such date as it may determine after members having sixty-five per cent of the total of the quotas set forth in Schedule A have become eligible, in accordance with the preceding paragraphs of this Section, to purchase the currencies of other members, but in no event until after major hostilities in Europe have ceased.

(i) The Fund may postpone exchange transactions with any member if its circumstances are such that, in the opinion of the Fund they would lead to use of the resources of the Fund in a manner contrary to the purposes of this Agreement or prejudicial to the Fund or the members.

(j) The par values of the currencies of governments which indicate their desire to become members after December 31, 1945, shall be determined in accordance with the provisions of Article II, Section 2.

DONE at Washington, in a single copy which shall remain deposited in the archives of the Government of the United States of America which shall transmit certified copies to all governments whose names are set forth in Schedule A and to all governments whose membership is approved in accordance with Article II, Section 2.

## SCHEDULE A

## QUOTAS

(In millions of  
United States dollars)

Australia	..	..	..	..	..	..	200
Belgium	..	..	..	..	..	..	225
Bolivia	..	..	..	..	..	..	10
Brazil	..	..	..	..	..	..	150
Canada	..	..	..	..	..	..	300
Chile	..	..	..	..	..	..	50
China	..	..	..	..	..	..	550
Colombia	..	..	..	..	..	..	50
Costa Rica	..	..	..	..	..	..	5
Cuba	..	..	..	..	..	..	50
Czechoslovakia	..	..	..	..	..	..	125
Denmark <sup>1</sup>	..	..	..	..	..	..	*
Dominican Republic	..	..	..	..	..	..	5
Ecuador	..	..	..	..	..	..	5
Egypt	..	..	..	..	..	..	45
El Salvador	..	..	..	..	..	..	2.5
Ethiopia	..	..	..	..	..	..	6
France	..	..	..	..	..	..	450
Greece	..	..	..	..	..	..	40
Guatemala	..	..	..	..	..	..	5
Haiti	..	..	..	..	..	..	5
Honduras	..	..	..	..	..	..	2.5
Iceland	..	..	..	..	..	..	1
India	..	..	..	..	..	..	400
Iran	..	..	..	..	..	..	25
Iraq	..	..	..	..	..	..	8
Liberia	..	..	..	..	..	..	.5
Luxembourg	..	..	..	..	..	..	10
Mexico	..	..	..	..	..	..	90
Netherlands	..	..	..	..	..	..	275
New Zealand	..	..	..	..	..	..	50
Nicaragua	..	..	..	..	..	..	2
Norway	..	..	..	..	..	..	50
Panama	..	..	..	..	..	..	.5
Paraguay	..	..	..	..	..	..	2
Peru	..	..	..	..	..	..	25
Philippine Commonwealth	..	..	..	..	..	..	15
Poland	..	..	..	..	..	..	125
Union of South Africa	..	..	..	..	..	..	100
Union of Soviet Socialist Republics	..	..	..	..	..	..	1200
United Kingdom	..	..	..	..	..	..	1300

<sup>1</sup> The quota of Denmark shall be determined by the Fund after the Danish Government has declared its readiness to sign this Agreement but before signature takes place.

**BRETTON WOODS**(In millions of  
United States dollars)

United States	..	..	..	..	..	..	2750
Uruguay	..	..	..	..	..	..	15
Venezuela	..	..	..	..	..	..	15
Yugoslavia	..	..	..	..	..	..	60

**SCHEDULE B****PROVISIONS WITH RESPECT TO REPURCHASE BY A MEMBER OF ITS CURRENCY  
HELD BY THE FUND**

1. In determining the extent to which repurchase of a member's currency from the Fund under Article V, Section 7 (b) shall be made with each type of monetary reserve, that is, with gold and with each convertible currency, the following rule, subject to 2 below, shall apply:

- (a) If the member's monetary reserves have not increased during the year, the amount payable to the Fund shall be distributed among all types of reserves in proportion to the member's holdings thereof at the end of the year.
- (b) If the member's monetary reserves have increased during the year, a part of the amount payable to the Fund equal to one-half of the increase shall be distributed among those types of reserves which have increased in proportion to the amount by which each of them has increased. The remainder of the sum payable to the Fund shall be distributed among all types of reserves in proportion to the member's remaining holdings thereof.
- (c) If after all the repurchases required under Article V, Section 7 (b), had been made, the result would exceed any of the limits specified in Article V, Section 7 (c), the Fund shall require such repurchases to be made by the members proportionately in such manner that the limits will not be exceeded.

2. The Fund shall not acquire the currency of any non-member under Article V, Section 7 (b) and (c).

3. In calculating monetary reserves and the increase in monetary reserves during any year for the purpose of Article V, Section 7 (b) and (c), no account shall be taken, unless deductions have otherwise been made by the member for such holdings, of any increase in those monetary reserves which is due to currency previously inconvertible having become convertible during the year; or to holdings which are the proceeds of a long-term or medium-term loan contracted during the year; or to holdings which have been transferred or set aside for repayment of a loan during the subsequent year.

4. In the case of members whose metropolitan territories have been occupied by the enemy, gold newly produced during the five years after the entry into force of this Agreement from mines located within their metropolitan territories shall not be included in computations of their monetary reserves or of increases in their monetary reserves.

## SCHEDULE C

### ELECTION OF EXECUTIVE DIRECTORS

1. The election of the elective executive directors shall be by ballot of the governors eligible to vote under Article XII, Section 3 (b) (iii) and (iv).

2. In balloting for the five directors to be elected under Article XII, Section 3 (b) (iii), each of the governors eligible to vote shall cast for one person all of the votes to which he is entitled under Article XII, Section 5 (a). The five persons receiving the greatest number of votes shall be directors, provided that no person who received less than nineteen per cent of the total number of votes that can be cast (eligible votes) shall be considered elected.

3. When five persons are not elected in the first ballot, a second ballot shall be held in which the person who received the lowest number of votes shall be ineligible for election and in which there shall vote only (a) those governors who voted in the first ballot for a person not elected, and (b) those governors whose votes for a person elected are deemed under 4 below to have raised the votes cast for that person above twenty per cent of the eligible votes.

4. In determining whether the votes cast by a governor are to be deemed to have raised the total of any person above twenty per cent of the eligible votes the twenty per cent shall be deemed to include, first, the votes of the governor casting the largest number of votes for such person, then the votes of the governor casting the next largest number, and so on until twenty per cent is reached.

5. Any governor part of whose votes must be counted in order to raise the total of any person above nineteen per cent shall be considered as casting all of his votes for such person even if the total votes for such person thereby exceed twenty per cent.

6. If, after the second ballot, five persons have not been elected, further ballots shall be held on the same principles until five persons have been elected, provided that after four persons are elected, the fifth may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes.

7. The directors to be elected by the American Republics under Article XII, Section 3 (b) (iv) shall be elected as follows:

- (a) Each of the directors shall be elected separately.
- (b) In the election of the first director, each governor representing an American Republic eligible to participate in the election shall cast for one person all the votes to which he is entitled. The person receiving the largest number of votes shall be elected provided that he has received not less than forty-five per cent of the total votes.
- (c) If no person is elected on the first ballot further ballots shall be held, in each of which the person receiving the lowest number of votes shall be eliminated, until one person receives a number of votes sufficient for election under (b) above.
- (d) Governors whose votes contributed to the election of the first director shall take no part in the election of the second director.
- (e) Persons who did not succeed in the first election shall not be ineligible for election as the second director.
- (f) A majority of the votes which can be cast shall be required for election of the second director. If at the first ballot no person receives a majority, further

ballots shall be held in each of which the person receiving the lowest number of votes shall be eliminated, until some person obtains a majority.

- (g) The second director shall be deemed to have been elected by all the votes which could have been cast in the ballot securing his election.

ANNEX B

ARTICLES OF AGREEMENT OF THE INTERNATIONAL BANK  
FOR RECONSTRUCTION AND DEVELOPMENT

The Governments on whose behalf the present Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

The International Bank for Reconstruction and Development is established and shall operate in accordance with the following provisions:

*Article I*

PURPOSES

The purposes of the Bank are:

- (i) To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries.
- (ii) To promote private foreign investment by means of guarantees or participations in loans and other investments made by private investors; and when private capital is not available on reasonable terms, to supplement private investment by providing, on suitable conditions, finance for productive purposes out of its own capital, funds raised by it and its other resources.
- (iii) To promote the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive resources of members, thereby assisting in raising productivity, the standard of living and conditions of labour in their territories.
- (iv) To arrange the loans made or guaranteed by it in relation to international loans through other channels so that the more useful and urgent projects, large and small alike, will be dealt with first.

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- (v) To conduct its operations with due regard to the effect of international investment on business conditions in the territories of members and, in the immediate post-war years, to assist in bringing about a smooth transition from a war-time to a peace-time economy.

The Bank shall be guided in all its decisions by the purposes set forth above.

### *Article II*

#### MEMBERSHIP IN AND CAPITAL OF THE BANK

##### Section 1. Membership

(a) The original members of the Bank shall be those members of the International Monetary Fund which accept membership in the Bank before the date specified in Article XI, Section 2 (e).

(b) Membership shall be open to other members of the Fund, at such times and in accordance with such terms as may be prescribed by the Bank.

##### Section 2. Authorized capital

(a) The authorized capital stock of the Bank shall be \$10,000 millions, in terms of United States dollars of the weight and fineness in effect on July 1, 1944. The capital stock shall be divided into 100,000 shares having a par value of \$100,000 each, which shall be available for subscription only by members.

(b) The capital stock may be increased when the Bank deems it advisable by a three-fourths majority of the total voting power.

##### Section 3. Subscription of shares

(a) Each member shall subscribe shares of the capital stock of the Bank. The minimum number of shares to be subscribed by the original members shall be those set forth in Schedule A. The minimum number of shares to be subscribed by other members shall be determined by the Bank, which shall reserve a sufficient portion of its capital stock for subscription by such members.

(b) The Bank shall prescribe rules laying down the conditions under which members may subscribe shares of the authorized capital stock of the Bank in addition to their minimum subscriptions.

(c) If the authorized capital stock of the Bank is increased, each member shall have a reasonable opportunity to subscribe, under such conditions as the Bank shall decide, a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total capital stock of the Bank, but no member shall be obligated to subscribe any part of the increased capital.



#### Section 4. Issue price of shares

Shares included in the minimum subscriptions of original members shall be issued at par. Other shares shall be issued at par unless the Bank by a majority of the total voting power decides in special circumstances to issue them on other terms.

#### Section 5. Division and calls of subscribed capital

The subscription of each member shall be divided into two parts as follows:

- (i) twenty per cent shall be paid or subject to call under Section 7 (i) of this Article as needed by the Bank for its operations;
- (ii) the remaining eighty per cent shall be subject to call by the Bank only when required to meet obligations of the Bank created under Article IV, Section 1 (a) (ii) and (iii).

Calls on unpaid subscriptions shall be uniform on all shares.

#### Section 6. Limitation on liability

Liability on shares shall be limited to the unpaid portion of the issue price of the shares.

#### Section 7. Method of payment of subscriptions for shares

Payment of subscriptions for shares shall be made in gold or United States dollars and in the currencies of the members as follows:

- (i) under Section 5 (i) of this Article, two per cent of the price of each share shall be payable in gold or United States dollars, and, when calls are made, the remaining eighteen per cent shall be paid in the currency of the member;
- (ii) when a call is made under Section 5 (ii) of this Article, payment may be made at the option of the member either in gold, United States dollars or in the currency required to discharge the obligations of the Bank for the purpose for which the call is made;
- (iii) when a member makes payments in any currency under (i) and (ii) above, such payments shall be made in amounts equal in value to the member's liability under the call. This liability shall be a proportionate part of the subscribed capital stock of the Bank as authorized and defined in Section 2 of this Article.

#### Section 8. Time of payment of subscriptions

(a) The two per cent payable on each share in gold or United States dollars under Section 7 (i) of this Article, shall be paid within sixty days of the date on which the Bank begins operations, provided

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that (i) any original member of the Bank whose metropolitan territory has suffered from enemy occupation or hostilities during the present war shall be granted the right to postpone payment of one-half per cent until five years after that date; (ii) an original member who cannot make such a payment because it has not recovered possession of its gold reserves which are still seized or immobilized as a result of the war may postpone all payment until such date as the Bank may decide.

(b) The remainder of the price of each share payable under Section 7 (i) of this Article shall be paid as and when called by the Bank, provided that

- (i) the Bank shall, within one year of its beginning operations, call not less than eight per cent of the price of the share in addition to the payment of two per cent referred to in (a) above;
- (ii) not more than five per cent of the price of the share shall be called in any period of three months.

### Section 9. Maintenance of value of certain currency holdings of the Bank

(a) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Bank, depreciated to a significant extent within that member's territories, the member shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of initial subscription, of the amount of the currency of such member, which is held by the Bank and derived from currency originally paid in to the Bank by the member under Article II, Section 7 (i), from currency referred to in Article IV, Section 2 (b), or from any additional currency furnished under the provisions of the present paragraph, and which has not been re-purchased by the member for gold or for the currency of any member which is acceptable to the Bank.

(b) Whenever the par value of a member's currency is increased, the Bank shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency described in (a) above.

(c) The provisions of the preceding paragraphs may be waived by the Bank when a uniform proportionate change in the par values of the currencies of all its members is made by the International Monetary Fund.

### Section 10. Restriction on disposal of shares

Shares shall not be pledged or encumbered in any manner whatever and they shall be transferable only to the Bank.

*Article III*

## GENERAL PROVISIONS RELATING TO LOANS AND GUARANTEES

## Section 1. Use of resources

(a) The resources and the facilities of the Bank shall be used exclusively for the benefit of members with equitable consideration to projects for development and projects for reconstruction alike.

(b) For the purpose of facilitating the restoration and reconstruction of the economy of members whose metropolitan territories have suffered great devastation from enemy occupation or hostilities, the Bank, in determining the conditions and terms of loans made to such members, shall pay special regard to lightening the financial burden and expediting the completion of such restoration and reconstruction.

## Section 2. Dealings between members and the Bank

Each member shall deal with the Bank only through its Treasury, central bank, stabilization fund or other similar fiscal agency, and the Bank shall deal with members only by or through the same agencies.

## Section 3. Limitations on guarantees and borrowings of the Bank

The total amount outstanding of guarantees, participations in loans and direct loans made by the Bank shall not be increased at any time, if by such increase the total would exceed one hundred per cent of the unimpaired subscribed capital, reserves and surplus of the Bank.

## Section 4. Conditions on which the Bank may guarantee or make loans

The Bank may guarantee, participate in, or make loans to any member or any political sub-division thereof and any business, industrial, and agricultural enterprise in the territories of a member, subject to the following conditions.

1. When the member in whose territories the project is located is not itself the borrower, the member or the central bank or some comparable agency of the Member which is acceptable to the Bank, fully guarantees the repayment of the principal and the payment of interest and other charges on the loan.

2. The Bank is satisfied that in the prevailing market conditions the borrower would be unable otherwise to obtain the loan under conditions which in the opinion of the Bank are reasonable for the borrower.

3. A competent committee, as provided for in Article V, Section 7, has submitted a written report recommending the project after a careful study of the merits of the proposal.

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4. In the opinion of the Bank the rate of interest and other charges are reasonable and such rate, charges and the schedule for repayment of principal are appropriate to the project.

5. In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower, and, if the borrower is not a member, that the guarantor, will be in a position to meet its obligations under the loan; and the Bank shall act prudently in the interests both of the particular member in whose territories the project is located and of the members as a whole.

6. In guaranteeing a loan made by other investors, the Bank receives suitable compensation for its risk.

7. Loans made or guaranteed by the Bank shall, except in special circumstances, be for the purpose of specific projects of reconstruction or development.

### Section 5. Use of loans guaranteed, participated in or made by the Bank

(a) The Bank shall impose no conditions that the proceeds of a loan shall be spent in the territories of any particular member or members.

(b) The Bank shall make arrangements to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and without regard to political or other non-economic influences or considerations.

(c) In the case of loans made by the Bank, it shall open an account in the name of the borrower and the amount of the loan shall be credited to this account in the currency or currencies in which the loan is made. The borrower shall be permitted by the Bank to draw on this account only to meet expenses in connection with the project as they are actually incurred.

## *Article IV*

### OPERATIONS

#### Section 1. Methods of making or facilitating loans

(a) The Bank may make or facilitate loans which satisfy the general conditions of Article III in any of the following ways:

(i) By making or participating in direct loans out of its own funds corresponding to its unimpaired paid-up capital, surplus and, subject to Section 6 of this Article, to its reserves.

(ii) By making or participating in direct loans out of funds raised

in the market of a member, or otherwise borrowed by the Bank.

(iii) By guaranteeing in whole or in part loans made by private investors through the usual investment channels.

(b) The Bank may borrow funds under (a) (ii) above or guarantee loans under (a) (iii) above only with the approval of the member in whose markets the funds are raised and the member in whose currency the loan is denominated, and only if those members agree that the proceeds may be exchanged for the currency of any other member without restriction.

## Section 2. Availability and transferability of currencies

(a) Currencies paid into the Bank under Article II, Section 7 (i), shall be loaned only with the approval in each case of the member whose currency is involved; provided, however, that if necessary, after the Bank's subscribed capital has been entirely called, such currencies shall, without restriction by the members whose currencies are offered, be used or exchanged for the currencies required to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to such contractual payments on loans guaranteed by the Bank.

(b) Currencies received by the Bank from borrowers or guarantors in payment on account of principal of direct loans made with currencies referred to in (a) above shall be exchanged for the currencies of other members or reloaned only with the approval in each case of the members whose currencies are involved; provided, however, that if necessary, after the Bank's subscribed capital has been entirely called, such currencies shall, without restriction by the members whose currencies are offered, be used or exchanged for the currencies required to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to such contractual payments on loans guaranteed by the Bank.

(c) Currencies received by the Bank from borrowers or guarantors in payment on account of principal of direct loans made by the Bank under Section 1 (a) (ii) of this Article, shall be held and used without restriction by the members to make amortization payments, or to anticipate payment of or repurchase part or all of the Bank's own obligations.

(d) All other currencies available to the Bank, including those raised in the market or otherwise borrowed under Section 1 (a) (ii) of this Article, those obtained by the sale of gold, those received as payments of interest and other charges for direct loans made under

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Sections 1 (a) (i) and (ii), and those received as payments of commissions and other charges under Section 1 (a) (iii), shall be used or exchanged for other currencies or gold required in the operations of the Bank without restriction by the members whose currencies are offered.

(e) Currencies raised in the markets of members by borrowers on loans guaranteed by the Bank under Section 1 (a) (iii) of this Article, shall also be used or exchanged for other currencies without restriction by such members.

### Section 3. Provision of currencies for direct loans

The following provisions shall apply to direct loans under Sections 1 (a) (i) and (ii) of this Article:

- (a) The Bank shall furnish the borrower with such currencies of members other than the member in whose territories the project is located as are needed by the borrower for expenditures to be made in the territories of such other members to carry out the purposes of the loan.
- (b) The Bank may, in exceptional circumstances when local currency required for the purposes of the loan cannot be raised by the borrower on reasonable terms, provide the borrower as part of the loan with an appropriate amount of that currency.
- (c) The Bank, if the project gives rise indirectly to an increased need for foreign exchange by the member in whose territories the project is located, may in exceptional circumstances provide the borrower as part of the loan with an appropriate amount of gold or foreign exchange not in excess of the borrower's local expenditure in connection with the purposes of the loan.
- (d) The Bank may, in exceptional circumstances, at the request of a member in whose territories a portion of the loan is spent, repurchase with gold or foreign exchange a part of that member's currency thus spent but in no case shall the part so repurchased exceed the amount by which the expenditure of the loan in those territories gives rise to an increased need for foreign exchange.

### Section 4. Payment provisions for direct loans

Loan contracts under Section 1 (a) (i) or (ii) of this Article shall be made in accordance with the following payment provisions:

- (a) The terms and conditions of interest and amortization payments, maturity and dates of payment of each loan shall be

determined by the Bank. The Bank shall also determine the rate and any other terms and conditions of commission to be charged in connection with such loan.

In the case of loans made under Section 1 (a) (ii) of this Article during the first ten years of the Bank's operations, this rate of commission shall be not less than one per cent per annum and not greater than one and one-half per cent per annum, and shall be charged on the outstanding portion of any such loan. At the end of this period of ten years, the rate of commission may be reduced by the Bank with respect both to the outstanding portions of loans already made and to future loans, if the reserves accumulated by the Bank under Section 6 of this Article and out of other earnings are considered by it sufficient to justify a reduction. In the case of future loans the Bank shall also have discretion to increase the rate of commission beyond the above limit, if experience indicates that an increase is advisable.

(b) All loan contracts shall stipulate the currency or currencies in which payments under the contract shall be made to the Bank. At the option of the borrower, however, such payments may be made in gold, or subject to the agreement of the Bank, in the currency of a member other than that prescribed in the contract.

(i) In the case of loans made under Section 1 (a) (i) of this Article, the loan contracts shall provide that payments to the Bank of interest, other charges and amortization shall be made in the currency loaned, unless the member whose currency is loaned agrees that such payments shall be made in some other specified currency or currencies. These payments, subject to the provisions of Article II, Section 9 (c), shall be equivalent to the value of such contractual payments at the time the loans were made, in terms of a currency specified for the purpose by the Bank by a three-fourths majority of the total voting power.

(ii) In the case of loans made under Section 1 (a) (ii) of this Article, the total amount outstanding and payable to the Bank in any one currency shall at no time exceed the total amount of the outstanding borrowings made by the Bank under Section 1 (a) (ii) and payable in the same currency.

(c) If a member suffers from an acute exchange stringency, so that the service of any loan contracted by that member or guaranteed by it or by one of its agencies cannot be provided in the stipulated manner, the member concerned may appeal to the Bank for a relaxation of the conditions of payment. If the Bank is satisfied that some relaxation is in the interests of the particular member and of

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the operations of the Bank and of its members as a whole, it may take action under either, or both, of the following paragraphs with respect to the whole, or part, of the annual service:

- (i) The Bank may, in its discretion, make arrangements with the member concerned to accept service payments on the loan in the member's currency for periods not to exceed three years upon appropriate terms regarding the use of such currency and the maintenance of its foreign exchange value; and for the repurchase of such currency on appropriate terms.
- (ii) The Bank may modify the terms of amortization or extend the life of the loan, or both.

### **Section 5. Guarantees**

(a) In guaranteeing a loan placed through the usual investment channels, the Bank shall charge a guarantee commission payable periodically on the amount of the loan outstanding at a rate determined by the Bank. During the first ten years of the Bank's operations, this rate shall be not less than one per cent per annum and not greater than one and one-half per cent per annum. At the end of this period of ten years, the rate of commission may be reduced by the Bank with respect both to the outstanding portions of loans already guaranteed and to future loans if the reserves accumulated by the Bank under Section 6 of this Article and out of other earnings are considered by it sufficient to justify a reduction. In the case of future loans the Bank shall also have discretion to increase the rate of commission beyond the above limit, if experience indicates that an increase is advisable.

(b) Guarantee commissions shall be paid directly to the Bank by the borrower.

(c) Guarantees by the Bank shall provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower and by the guarantor, if any, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

(d) The Bank shall have power to determine any other terms and conditions of the guarantee.

### **Section 6. Special reserve**

The amount of commissions received by the Bank under Sections 4 and 5 of this Article shall be set aside as a special reserve, which shall be used only for meeting liabilities of the Bank in accordance with Section 7 of this Article. The special reserve shall be held in such liquid form, permitted under this Agreement, as the Executive Directors may decide.



## Section 7. Methods of meeting liabilities of the Bank in case of defaults

In cases of default on loans made, participated in, or guaranteed by the Bank:

- (a) The Bank shall make such arrangements as may be feasible to adjust the obligations under the loans, including arrangements under or analogous to those provided in Section 4 (c) of this Article.
- (b) The payments in discharge of the Bank's liabilities on borrowings or guarantees under Sections 1 (a) (ii) and (iii) of this Article shall be charged:
  - (i) first, against the special reserve provided in Section 6 of this Article;
  - (ii) then, to the extent necessary and at the discretion of the Bank, against the other reserves, surplus and capital available to the Bank.
- (c) Whenever necessary to meet contractual payments of interest, other charges or amortization on the Bank's own borrowings, or to meet the Bank's liabilities with respect to similar payments on loans guaranteed by the Bank, the Bank may call an appropriate amount of the unpaid subscriptions of members in accordance with Article II, Sections 5 and 7. Moreover, if it believes that a default may be of long duration, the Bank may call an additional amount of such unpaid subscriptions not to exceed in any one year one per cent of the total subscriptions of the members for the following purposes:
  - (i) To redeem prior to maturity or otherwise discharge its liability on all or part of the outstanding principal of any loan guaranteed by it in respect of which the debtor is in default.
  - (ii) To repurchase or otherwise discharge its liability on all or part of its own outstanding borrowings.

## Section 8. Miscellaneous operations

In addition to the operations specified elsewhere in this Agreement, the Bank shall have the power:

- (i) To buy and sell securities it has issued and to buy and sell securities which it has guaranteed or in which it has invested, provided that the Bank shall obtain the approval of the member in whose territories the securities are to be bought or sold.

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- (ii) To guarantee securities in which it has invested for the purpose of facilitating their sale.
- (iii) To borrow the currency of any member with the approval of that member.
- (iv) To buy and sell such other securities as the Directors by a three-fourths majority of the total voting power may deem proper for the investment of all or part of the special reserve under Section 6 of this Article.

In exercising the powers conferred by this Section, the Bank may deal with any person, partnership, association, corporation or other legal entity in the territories of any member.

### Section 9. Warning to be placed on securities

Every security guaranteed or issued by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any government unless expressly stated on the security.

### Section 10. Political activity prohibited

The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in Article I.

## *Article V*

### ORGANIZATION AND MANAGEMENT

#### Section 1. Structure of the Bank

The Bank shall have a Board of Governors, Executive Directors, a President and such other officers and staff to perform such duties as the Bank may determine.

#### Section 2. Board of Governors

(a) All the powers of the Bank shall be vested in the Board of Governors consisting of one governor and one alternate appointed by each member in such manner as it may determine. Each governor and each alternate shall serve for five years, subject to the pleasure of the member appointing him, and may be reappointed. No alternate may vote except in the absence of his principal. The Board shall select one of the governors as Chairman.

(b) The Board of Governors may delegate to the Executive Directors authority to exercise any powers of the Board, except the power to:

- (i) Admit new members and determine the conditions of their admission;
  - (ii) Increase or decrease the capital stock;
  - (iii) Suspend a member;
  - (iv) Decide appeals from interpretations of this Agreement given by the Executive Directors;
  - (v) Make arrangements to co-operate with other international organizations (other than informal arrangements of a temporary and administrative character);
  - (vi) Decide to suspend permanently the operations of the Bank and to distribute its assets;
  - (vii) Determine the distribution of the net income of the Bank.
- (c) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board or called by the Executive Directors. Meetings of the Board shall be called by the Directors whenever requested by five members or by members having one-quarter of the total voting power.
- (d) A quorum for any meeting of the Board of Governors shall be a majority of the Governors, exercising not less than two-thirds of the total voting power.
- (e) The Board of Governors may by regulation establish a procedure whereby the Executive Directors, when they deem such action to be in the best interests of the Bank, may obtain a vote of the Governors on a specific question without calling a meeting of the Board.
- (f) The Board of Governors, and the Executive Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Bank.
- (g) Governors and alternates shall serve as such without compensation from the Bank, but the Bank shall pay them reasonable expenses incurred in attending meetings.
- (h) The Board of Governors shall determine the remuneration to be paid to the Executive Directors and the salary and terms of the contract of service of the President.

### Section 3. Voting

- (a) Each member shall have two hundred and fifty votes plus one additional vote for each share of stock held.
- (b) Except as otherwise specifically provided, all matters before the Bank shall be decided by a majority of the votes cast.

### Section 4. Executive Directors

- (a) The Executive Directors shall be responsible for the conduct of the general operations of the Bank, and for this purpose,

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shall exercise all the powers delegated to them by the Board of Governors.

(b) There shall be twelve Executive Directors, who need not be governors, and of whom:

- (i) five shall be appointed, one by each of the five members having the largest number of shares;
- (ii) seven shall be elected according to Schedule B by all the Governors other than those appointed by the five members referred to in (i) above.

For the purpose of this paragraph, "members" means governments of countries whose names are set forth in Schedule A, whether they are original members or become members in accordance with Article II, Section 1 (b). When governments of other countries become members, the Board of Governors may, by a four-fifths majority of the total voting power, increase the total number of Directors by increasing the number of Directors to be elected.

Executive Directors shall be appointed or elected every two years.

(c) Each Executive Director shall appoint an alternate with full power to act for him when he is not present. When the Executive Directors appointing them are present, alternates may participate in meetings but shall not vote.

(d) Directors shall continue in office until their successors are appointed or elected. If the office of an elected director becomes vacant more than ninety days before the end of his term, another director shall be elected for the remainder of the term by the Governors who elected the former director. A majority of the votes cast shall be required for election. While the office remains vacant, the alternate of the former director shall exercise his powers, except that of appointing an alternate.

(e) The Executive Directors shall function in continuous session at the principal office of the Bank and shall meet as often as the business of the Bank may require.

(f) A quorum for any meeting of the Executive Directors shall be a majority of the Directors, exercising not less than one-half of the total voting power.

(g) Each appointed Director shall be entitled to cast the number of votes allotted under Section 3 of this Article to the member appointing him. Each elected Director shall be entitled to cast the number of votes which counted towards his election. All the votes which a Director is entitled to cast shall be cast as a unit.

(h) The Board of Governors shall adopt regulations under which a member not entitled to appoint a Director under (b) above

may send a representative to attend any meeting of the Executive Directors at which a request made by, or a matter particularly affecting, that member is under consideration.

(i) The Executive Directors may appoint such committees as they deem advisable. Membership of such committees need not be limited to Governors or Directors or their alternates.

## Section 5. President and staff

(a) The Executive Directors shall select a President who shall not be a Governor or an Executive Director or an alternate for either. The President shall be Chairman of the Executive Directors, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors, but shall not vote at such meetings. The President shall cease to hold office when the Executive Directors so decide.

(b) The President shall be chief of the operating staff of the Bank and shall conduct, under the direction of the Executive Directors, the ordinary business of the Bank. Subject to the general control of the Executive Directors, he shall be responsible for the organization, appointment and dismissal of the officers and staff.

(c) The President, officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

(d) In appointing the officers and staff the President shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

## Section 6. Advisory Council

(a) There shall be an Advisory Council of not less than seven persons selected by the Board of Governors including representatives of banking, commercial, industrial, labour, and agricultural interests, and with as wide a national representation as possible. In those fields where specialized international organizations exist, the members of the Council representative of those fields shall be selected in agreement with such organizations. The Council shall advise the Bank on matters of general policy. The Council shall meet annually and on such other occasions as the Bank may request.

(b) Councillors shall serve for two years and may be reappointed. They shall be paid their reasonable expenses incurred on behalf of the Bank.

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### **Section 7. Loan Committees**

The committees required to report on loans under Article III, Section 4, shall be appointed by the Bank. Each such committee shall include an expert selected by the Governor representing the member in whose territories the project is located and one or more members of the technical staff of the Bank.

### **Section 8. Relationship to other international organizations**

(a) The Bank, within the terms of this Agreement, shall co-operate with any general international organization and with public international organizations having specialized responsibilities in related fields. Any arrangements for such co-operation which would involve a modification of any provision of this Agreement may be effected only after amendment to this Agreement under Article VIII.

(b) In making decisions on applications for loans or guarantees relating to matters directly within the competence of any international organization of the types specified in the preceding paragraph and participated in primarily by members of the Bank, the Bank shall give consideration to the views and recommendations of such organization.

### **Section 9. Location of offices**

(a) The principal office of the Bank shall be located in the territory of the member holding the greatest number of shares.

(b) The Bank may establish agencies or branch offices in the territories of any member of the Bank.

### **Section 10. Regional offices and councils**

(a) The Bank may establish regional offices and determine the location of, and the areas to be covered by, each regional office.

(b) Each regional office shall be advised by a regional council representative of the entire area and selected in such manner as the Bank may decide.

### **Section 11. Depositories**

(a) Each member shall designate its central bank as a depository for all the Bank's holdings of its currency or, if it has no central bank, it shall designate such other institution as may be acceptable to the Bank.

(b) The Bank may hold other assets, including gold, in depositories designated by the five members having the largest number of shares and in such other designated depositories as the Bank may select. Initially, at least one-half of the gold holdings of the Bank shall be held in the depository designated by the member in whose territory

the Bank has its principal office, and at least forty per cent shall be held in the depositories designated by the remaining four members referred to above, each of such depositories to hold, initially, not less than the amount of gold paid on the shares of the member designating it. However, all transfers of gold by the Bank shall be made with due regard to the costs of transport and anticipated requirements of the Bank. In an emergency the Executive Directors may transfer all or any part of the Bank's gold holdings to any place where they can be adequately protected.

#### Section 12. Form of holdings of currency

The Bank shall accept from any member, in place of any part of the member's currency, paid in to the Bank under Article II, Section 7 (i), or to meet amortization payments on loans made with such currency, and not needed by the Bank in its operations, notes or similar obligations issued by the Government of the member or the depository designated by such member, which shall be non-negotiable, non-interest-bearing and payable at their par value on demand by credit to the account of the Bank in the designated depository.

#### Section 13. Publication of reports and provision of information

(a) The Bank shall publish an annual report containing an audited statement of its accounts and shall circulate to members at intervals of three months or less a summary statement of its financial position and a profit and loss statement showing the results of its operations.

(b) The Bank may publish such other reports as it deems desirable to carry out its purposes.

(c) Copies of all reports, statements and publications made under this section shall be distributed to members.

#### Section 14. Allocation of net income

(a) The Board of Governors shall determine annually what part of the Bank's net income, after making provision for reserves, shall be allocated to surplus and what part, if any, shall be distributed.

(b) If any part is distributed, up to two per cent non-cumulative shall be paid, as a first charge against the distribution for any year, to each member on the basis of the average amount of the loans outstanding during the year made under Article IV, Section 1 (a) (i), out of currency corresponding to its subscription. If two per cent is paid as a first charge, any balance remaining to be distributed shall be paid to all members in proportion to their shares. Payments to each member shall be made in its own currency, or if that currency

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is not available in other currency acceptable to the member. If such payments are made in currencies other than the member's own currency, the transfer of the currency and its use by the receiving member after payment shall be without restriction by the members.

### *Article VI*

#### WITHDRAWAL AND SUSPENSION OF MEMBERSHIP: SUSPENSION OF OPERATIONS

##### Section 1. Right of members to withdraw

Any member may withdraw from the Bank at any time by transmitting a notice in writing to the Bank at its principal office. Withdrawal shall become effective on the date such notice is received.

##### Section 2. Suspension of membership

If a member fails to fulfil any of its obligations to the Bank, the Bank may suspend its membership by decision of a majority of the Governors, exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing.

While under suspension, a member shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal, but shall remain subject to all obligations.

##### Section 3. Cessation of membership in International Monetary Fund

Any member which ceases to be a member of the International Monetary Fund shall automatically cease after three months to be a member of the Bank unless the Bank by three fourths of the total voting power has agreed to allow it to remain a member.

##### Section 4. Settlement of accounts with governments ceasing to be members

(a) When a government ceases to be a member, it shall remain liable for its direct obligations to the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member are outstanding; but it shall cease to incur liabilities with respect to loans and guarantees entered into thereafter by the Bank and to share either in the income or the expenses of the Bank.

(b) At the time a government ceases to be a member, the Bank shall arrange for the repurchase of its shares as a part of the settlement of accounts with such government in accordance with the



provisions of paragraphs (c) and (d) below. For this purpose the repurchase price of the shares shall be the value shown by the books of the Bank on the day the government ceases to be a member.

(c) The payment for shares repurchased by the Bank under this section shall be governed by the following conditions:

- (i) Any amount due to the government for its share shall be withheld so long as the government, its central bank or any of its agencies remains liable, as borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the liability of the government resulting from its subscription for shares under Article II, Section 5 (ii). In any event, no amount due to a member for its shares shall be paid until six months after the date upon which the government ceases to be a member.
- (ii) Payments for shares may be made from time to time, upon their surrender by the government, to the extent by which the amount due as the repurchase price in (b) above exceeds the aggregate of liabilities on loans and guarantees in (c) (i) above until the former member has received the full repurchase price.
- (iii) Payments shall be made in the currency of the country receiving payment or at the option of the Bank in gold.
- (iv) If losses are sustained by the Bank on any guarantees, participations in loans, or loans which were outstanding on the date when the government ceased to be a member, and the amount of such losses exceeds the amount of the reserve provided against losses on the date when the government ceased to be a member, such government shall be obligated to repay upon demand the amount by which the repurchase price of its shares would have been reduced, if the losses had been taken into account when the repurchase price was determined. In addition, the former member government shall remain liable on any call for unpaid subscriptions under Article II, Section 5 (ii) to the extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

(d) If the Bank suspends permanently its operations under Section 5 (b) of this Article, within six months of the date upon which any government ceases to be a member, all rights of such government shall be determined by the provisions of Section 5 of this Article.

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### Section 5. Suspension of operations and settlement of obligations

(a) In an emergency the Executive Directors may suspend temporarily operations in respect of new loans and guarantees pending an opportunity for further consideration and action by the Board of Governors.

(b) The Bank may suspend permanently its operations in respect of new loans and guarantees by vote of a majority of the Governors, exercising a majority of the total voting power. After such suspension of operations the Bank shall forthwith cease all activities, except those incident to the orderly realization, conservation, and preservation of its assets and settlement of its obligations.

(c) The liability of all members for uncalled subscriptions to the capital stock of the Bank and in respect of the depreciation of their own currencies shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

(d) All creditors holding direct claims shall be paid out of the assets of the Bank, and then out of payments to the Bank on calls on unpaid subscriptions. Before making any payments to creditors holding direct claims, the Executive Directors shall make such arrangements as are necessary, in their judgement, to insure a distribution to holders of contingent claims ratably with creditors holding direct claims.

(e) No distribution shall be made to members on account of their subscriptions to the capital stock of the Bank until

- (i) all liabilities to creditors have been discharged or provided for, and
- (ii) a majority of the Governors, exercising a majority of the total voting power, have decided to make a distribution.

(f) After a decision to make a distribution has been taken under (e) above, the Executive Directors may by a two-thirds majority vote make successive distributions of the assets of the Bank to members until all of the assets have been distributed. This distribution shall be subject to the prior settlement of all outstanding claims of the Bank against each member.

(g) Before any distribution of assets is made, the Executive Directors shall fix the proportionate share of each member according to the ratio of its shareholding to the total outstanding shares of the Bank.

(h) The Executive Directors shall value the assets to be distributed as at the date of distribution and then proceed to distribute in the following manner:

- (i) There shall be paid to each member in its own obligations or those of its official agencies or legal entities within its terri-

tories, in so far as they are available for distribution, an amount equivalent in value to its proportionate share of the total amount to be distributed.

- (ii) Any balance due to a member after payment has been made under (i) above shall be paid, in its own currency, in so far as it is held by the Bank, up to an amount equivalent in value to such balance.
- (iii) Any balance due to a member after payment has been made under (i) and (ii) above shall be paid, in gold or currency acceptable to the member, in so far as they are held by the Bank, up to an amount equivalent in value to such balance.
- (iv) Any remaining assets held by the Bank after payments have been made to members under (i), (ii), and (iii) above shall be distributed *pro rata* among the members.

(i) Any member receiving assets distributed by the Bank in accordance with (h) above, shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

## *Article VII*

### STATUS, IMMUNITIES AND PRIVILEGES

#### Section 1. Purposes of Article

To enable the Bank to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territories of each member.

#### Section 2. Status of the Bank

The Bank shall possess full juridical personality, and, in particular, the capacity:

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

#### Section 3. Position of the Bank with regard to judicial process

Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgement against the Bank.

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### **Section 4. Immunity of assets from seizure**

Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

### **Section 5. Immunity of archives**

The archives of the Bank shall be inviolable

### **Section 6. Freedom of assets from restrictions**

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

### **Section 7. Privilege for communications**

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

### **Section 8. Immunities and privileges of officers and employees**

All governors, executive directors, alternates, officers and employees of the Bank

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

### **Section 9. Immunities from taxation**

(a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or

employees of the Bank who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held—

- (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held—

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

#### Section 10. Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Bank of the detailed action which it has taken.

### *Article VIII*

#### AMENDMENTS

(a) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a Governor or the Executive Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board. If the proposed amendment is approved by the Board the Bank shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members, having four-fifths of the total voting power, have accepted the proposed amendment, the Bank shall certify the fact by a formal communication addressed to all members.

(b) Notwithstanding (a) above, acceptance by all members is required in the case of any amendment modifying (i) the right to withdraw from the Bank provided in Article VI, Section 1; (ii) the right secured by Article II, Section 3 (c); (iii) the limitation on liability provided in Article II, Section 6.

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(c) Amendments shall enter into force for all members three months after the date of the formal communication unless a shorter period is specified in the circular letter or telegram.

### *Article IX*

#### INTERPRETATION

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Bank or between any members of the Bank shall be submitted to the Executive Directors for their decision. If the question particularly affects any member not entitled to appoint an Executive Director, it shall be entitled to representation in accordance with Article V, Section 4 (h).

(b) In any case where the Executive Directors have given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board, the Bank may so far as it deems necessary, act on the basis of the decision of the Executive Directors.

(c) Whenever a disagreement arises between the Bank and a country which has ceased to be a member, or between the Bank and any member during the permanent suspension of the Bank, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Bank, another by the country involved and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the Permanent Court of International Justice or such other authority as may have been prescribed by regulation adopted by the Bank. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

### *Article X*

#### APPROVAL DEEMED GIVEN

Whenever the approval of any member is required before any act may be done by the Bank, except in Article VIII, approval shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix in notifying the member of the proposed act.

### *Article XI*

#### FINAL PROVISIONS

#### Section 1. Entry into force

This Agreement shall enter into force when it has been signed on behalf of governments whose minimum subscriptions comprise not

less than 65 per cent of the total subscriptions set forth in Schedule A and when the instruments referred to in Section 2 (a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before May 1, 1945.

## Section 2. Signature

(a) Each government on whose behalf this Agreement is signed shall deposit with the Government of the United States of America an instrument setting forth that it has accepted this Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(b) Each government shall become a member of the Bank as from the date of the deposit on its behalf of the instrument referred to in (a) above, except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

(c) The Government of the United States of America shall inform the governments of all countries whose names are set forth in Schedule A, and all governments whose membership is approved in accordance with Article II, Section 1 (b), of all signatures of this Agreement and of the deposit of all instruments referred to in (a) above.

(d) At the time this Agreement is signed on its behalf, each government shall transmit to the Government of the United States of America one one-hundredth of one per cent of the price of each share in gold or United States dollars for the purpose of meeting administrative expenses of the Bank. This payment shall be credited on account of the payment to be made in accordance with Article II, Section 8 (a). The Government of the United States of America shall hold such funds in a special deposit account and shall transmit them to the Board of Governors of the Bank when the initial meeting has been called under Section 3 of this Article. If this Agreement has not come into force by December 31, 1945, the Government of the United States of America shall return such funds to the governments that transmitted them.

(e) This Agreement shall remain open for signature at Washington on behalf of the governments of the countries whose names are set forth in Schedule A until December 31, 1945.

(f) After December 31, 1945, this Agreement shall be open for signature on behalf of the government of any country whose membership has been approved in accordance with Article II, Section 1 (b).

(g) By their signature of this Agreement, all governments accept it both on their own behalf and in respect of all their colonies, overseas territories, all territories under their protection, suzerainty, or authority and all territories in respect of which they exercise a mandate.

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(h) In the case of governments whose metropolitan territories have been under enemy occupation, the deposit of the instrument referred to in (a) above may be delayed until one hundred and eighty days after the date on which these territories have been liberated. If, however, it is not deposited by any such government before the expiration of this period, the signature affixed on behalf of that government shall become void and the portion of its subscription paid under (d) above shall be returned to it.

(i) Paragraphs (d) and (h) shall come into force with regard to each signatory government as from the date of its signature.

### Section 3. Inauguration of the Bank

(a) As soon as this Agreement enters into force under Section 1 of this Article, each member shall appoint a governor and the member to whom the largest number of shares is allocated in Schedule A shall call the first meeting of the Board of Governors.

(b) At the first meeting of the Board of Governors, arrangements shall be made for the selection of provisional Executive Directors. The governments of the five countries, to which the largest number of shares are allocated in Schedule A, shall appoint provisional Executive Directors. If one or more of such governments have not become members, the executive directorships which they would be entitled to fill shall remain vacant until they become members, or until January 1, 1946, whichever is the earlier. Seven provisional Executive Directors shall be elected in accordance with the provisions of Schedule B and shall remain in office until the date of the first regular election of Executive Directors which shall be held as soon as practicable after January 1, 1946.

(c) The Board of Governors may delegate to the provisional Executive Directors any powers except those which may not be delegated to the Executive Directors.

(d) The Bank shall notify members when it is ready to commence operations.

DONE at Washington, in a single copy which shall remain deposited in the archives of the Government of the United States of America which shall transmit certified copies to all governments whose names are set forth in Schedule A and to all governments whose membership is approved in accordance with Article II, Section 1 (b).

#### SCHEDULE A

Subscriptions								(millions of dollars)
Australia	..	..	..	..	..	..	..	200
Belgium	..	..	..	..	..	..	..	225
Bolivia	..	..	..	..	..	..	..	7



**BRETTON WOODS**

(millions of dollars)

Brazil	..	..	..	..	..	..	..	105
Canada	..	..	..	..	..	..	..	325
Chile	..	..	..	..	..	..	..	35
China	..	..	..	..	..	..	..	600
Colombia	..	..	..	..	..	..	..	35
Costa Rica	..	..	..	..	..	..	..	2
Cuba	..	..	..	..	..	..	..	35
Czechoslovakia	..	..	..	..	..	..	..	125
<sup>1</sup> Denmark	..	..	..	..	..	..	..	—
Dominican Republic	..	..	..	..	..	..	..	2
Ecuador	..	..	..	..	..	..	..	3·2
Egypt	..	..	..	..	..	..	..	40
El Salvador	..	..	..	..	..	..	..	1
Ethiopia	..	..	..	..	..	..	..	3
France	..	..	..	..	..	..	..	450
Greece	..	..	..	..	..	..	..	25
Guatemala	..	..	..	..	..	..	..	2
Haiti	..	..	..	..	..	..	..	2
Honduras	..	..	..	..	..	..	..	1
Iceland	..	..	..	..	..	..	..	1
India	..	..	..	..	..	..	..	400
Iran	..	..	..	..	..	..	..	24
Iraq	..	..	..	..	..	..	..	6
Liberia	..	..	..	..	..	..	..	·5
Luxembourg	..	..	..	..	..	..	..	10
Mexico	..	..	..	..	..	..	..	65
Netherlands	..	..	..	..	..	..	..	275
New Zealand	..	..	..	..	..	..	..	50
Nicaragua	..	..	..	..	..	..	..	·8
Norway	..	..	..	..	..	..	..	50
Panama	..	..	..	..	..	..	..	·2
Paraguay	..	..	..	..	..	..	..	·8
Peru	..	..	..	..	..	..	..	17·5
Philippine Commonwealth	..	..	..	..	..	..	..	15
Poland	..	..	..	..	..	..	..	125
Union of South Africa	..	..	..	..	..	..	..	100
Union of Soviet Socialist Republics	..	..	..	..	..	..	..	1,200
United Kingdom	..	..	..	..	..	..	..	1,300
United States	..	..	..	..	..	..	..	3,175
Uruguay	..	..	..	..	..	..	..	10·5
Venezuela	..	..	..	..	..	..	..	10·5
Yugoslavia	..	..	..	..	..	..	..	40
Total								9,100

<sup>1</sup> The quota of Denmark shall be determined by the Bank after Denmark accepts membership in accordance with these Articles of Agreement.

SCHEDULE B

ELECTION OF EXECUTIVE DIRECTORS

1. The election of the elective Executive Directors shall be by ballot of the Governors eligible to vote under Article V, Section 4 (b).

2. In balloting for the elective Executive Directors, each Governor eligible to vote shall cast for one person all of the votes to which the member appointing him is entitled under Section 3 of Article V. The seven persons receiving the greatest number of votes shall be Executive Directors, except that no person who receives less than fourteen per cent of the total of the votes which can be cast (eligible votes) shall be considered elected.

3. When seven persons are not elected on the first ballot, a second ballot shall be held in which the person who received the lowest number of votes shall be ineligible for election and in which there shall vote only (a) those Governors who voted in the first ballot for a person not elected and (b) those Governors whose votes for a person elected are deemed under 4 below to have raised the votes cast for that person above fifteen per cent of the eligible votes.

4. In determining whether the votes cast by a Governor are to be deemed to have raised the total of any person above fifteen per cent of the eligible votes, the fifteen per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number, and so on until fifteen per cent is reached.

5. Any Governor, part of whose votes must be counted in order to raise the total of any person above fourteen per cent, shall be considered as casting all of his votes for such person even if the total votes for such person thereby exceed fifteen per cent.

6. If, after the second ballot, seven persons have not been elected, further ballots shall be held on the same principles until seven persons have been elected, provided that after six persons are elected, the seventh may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes.

DUMBARTON OAKS CONVERSATIONS ON WORLD ORGANIZATION<sup>1</sup>

August 21 October 7, 1944

Conversations between United Kingdom, United States and Soviet Union officials regarding a possible World Organization were held at Dumbarton Oaks, Washington, between August 21 and September 28, 1944. Conversations on the same subject between United Kingdom, United States and Chinese officials were held between September 29 and October 7. The following announcement was made by His Majesty's Government in the United Kingdom on October 9 regarding the outcome of both phases of the conversations. Identical communiqués were issued on the same date by the other three Governments concerned:

<sup>1</sup> Cmd. 6560.

"His Majesty's Government in the United Kingdom have now received the report of their Delegation to conversations held in Washington between August 21 and October 7 with the Delegations of the United States of America, the Union of Soviet Socialist Republics and the Republic of China for the maintenance of peace and security.

2. There is annexed hereto a statement of tentative proposals indicating in detail the wide range of subjects on which agreement has been reached at the conversations.

3. The Governments which were represented in the discussions in Washington have agreed that, after further study of these proposals, they will as soon as possible take the necessary steps with a view to the preparation of complete proposals which could then serve as a basis of discussion at a full United Nations conference."

#### PROPOSALS FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION

There should be established an international organization under the title of The United Nations, the Charter of which should contain provisions necessary to give effect to the proposals which follow.

### CHAPTER I

#### PURPOSES

The purposes of the Organization should be:

1. To maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace;

2. To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in the solution of international economic, social and other humanitarian problems; and

4. To afford a centre for harmonizing the actions of nations in the achievement of these common ends.

### CHAPTER II

#### PRINCIPLES

In pursuit of the purposes mentioned in Chapter I the Organization and its members should act in accordance with the following principles:

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1. The Organization is based on the principle of the sovereign equality of all peace-loving States.

2. All members of the Organization undertake, in order to ensure to all of them the rights and benefits resulting from membership in the Organization, to fulfil the obligations assumed by them in accordance with the Charter.

3. All members of the Organization shall settle their disputes by peaceful means in such a manner that international peace and security are not endangered.

4. All members of the Organization shall refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the Organization.

5. All members of the Organization shall give every assistance to the Organization in any action undertaken by it in accordance with the provisions of the Charter.

6. All members of the Organization shall refrain from giving assistance to any State against which preventive or enforcement action is being undertaken by the Organization.

The Organization should ensure that States not members of the Organization act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

## CHAPTER III

### MEMBERSHIP

Membership of the Organization should be open to all peace-loving States.

## CHAPTER IV

### PRINCIPAL ORGANS

1. The Organization should have as its principal organs:

- (a) A General Assembly;
- (b) A Security Council;
- (c) An International Court of Justice; and
- (d) A Secretariat.

2. The Organization should have such subsidiary agencies as may be found necessary.

## CHAPTER V

### THE GENERAL ASSEMBLY

#### (A) *Composition*

All members of the Organization should be members of the General Assembly and should have a number of representatives to be specified in the Charter.

*(B) Functions and Powers*

1. The General Assembly should have the right to consider the general principles of co-operation in the maintenance of international peace and security including the principles governing disarmament and the regulation of armaments; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council.

2. The General Assembly should be empowered to admit new members to the Organization upon recommendation of the Security Council.

3. The General Assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by decision of the Security Council. The General Assembly should be empowered upon recommendation of the Security Council to expel from the Organization any member of the Organization which persistently violates the principles contained in the Charter.

4. The General Assembly should elect the non-permanent members of the Security Council and the members of the Economic and Social Council provided for in Chapter IX. It should be empowered to elect upon recommendation of the Security Council, the Secretary-General of the Organization. It should perform such functions in relation to the election of the Judges of the International Court of Justice as may be conferred upon it by the Statute of the Court.

5. The General Assembly should apportion the expenses among the members of the Organization and should be empowered to approve the budgets of the Organization.

6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international co-operation in political, economic and social fields and of adjusting situations likely to impair the general welfare.

7. The General Assembly should make recommendations for the co-ordination of the policies of international economic, social and

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other specialized agencies brought into relation with the Organization in accordance with agreements between such agencies and the Organization.

8. The General Assembly should receive and consider annual and special reports from the Security Council and reports from other bodies of the Organization.

### (C) *Voting*

1. Each member of the Organization should have one vote in the General Assembly.

2. Important decisions of the General Assembly, including recommendations with respect to the maintenance of international peace and security; the election of members of the Security Council; election of members of the Economic and Social Council; admission of members, suspension of the exercise of the rights and privileges of members, and expulsion of members; and budgetary questions, should be made by a two-thirds majority of those present and voting. On other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, the decisions of the General Assembly should be made by a simple majority vote.

### (D) *Procedure*

1. The General Assembly should meet in regular annual sessions and in such special sessions as occasion may require.

2. The General Assembly should adopt its own rules of procedure and elect its president for each session.

3. The General Assembly should be empowered to set up such bodies and agencies as it may deem necessary for the performance of its functions.

## CHAPTER VI

### THE SECURITY COUNCIL

#### (A) *Composition*

The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and in due course France, should have permanent seats. The General Assembly should elect six States to fill the non-permanent seats. These six States should be elected for a term of two years, three retiring each year. They should not be immediately eligible for re-election. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

(B) *Principal functions and powers*

1. In order to ensure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility it should act on their behalf.

2. In discharging these duties the Security Council should act in accordance with the purposes and principles of the Organization.

3. The specific powers conferred on the Security Council in order to carry out these duties are laid down in Chapter VIII.

4. All members of the Organization should obligate themselves to accept the decisions of the Security Council and to carry them out in accordance with the provisions of the Charter.

5. In order to promote the establishment and maintenance of international peace and security with the least diversion of the world's human and economic resources for armaments, the Security Council, with the assistance of the Military Staff Committee referred to in Chapter VIII, Section (B), paragraph 9, should have the responsibility for formulating plans for the establishment of a system of regulation of armaments for submission to the members of the Organization.

(C) *Voting*

[NOTE. The question of voting procedure in the Security Council is still under consideration.]

(D) *Procedure*

1. The Security Council should be so organized as to be able to function continuously and each State member of the Security Council should be permanently represented at the headquarters of the Organization. It may hold meetings at such other places as in its judgement may best facilitate its work. There should be periodic meetings at which each State member of the Security Council could, if it so desired, be represented by a member of the Government or some other special representative.

2. The Security Council should be empowered to set up such bodies or agencies as it may deem necessary for the performance of its functions, including regional sub-committees of the Military Staff Committee.

3. The Security Council should adopt its own rules of procedure, including the method of selecting its President.

4. Any member of the Organization should participate in the discussion of any question brought before the Security Council

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whenever the Security Council considers that the interests of that member of the Organization are specially affected.

5. Any member of the Organization not having a seat on the Security Council and any State not a member of the Organization if it is a party to a dispute under consideration by the Security Council should be invited to participate in the discussion relating to the dispute.

## CHAPTER VII

### AN INTERNATIONAL COURT OF JUSTICE

1. There should be an International Court of Justice which should constitute the principal judicial organ of the Organization.

2. The Court should be constituted and should function in accordance with a Statute which should be annexed to and be a part of the Charter of the Organization.

3. The Statute of the Court of International Justice should be either (a) the Statute of the Permanent Court of International Justice, continued in force with such modifications as may be desirable, or (b) a new Statute in the preparation of which the Statute of the Permanent Court of International Justice should be used as a basis.

4. All members of the Organization should, *ipso facto*, be parties to the Statute of the International Court of Justice.

5. Conditions under which States not members of the Organization may become parties to the Statute of the International Court of Justice should be determined in each case by the General Assembly upon recommendation of the Security Council.

## CHAPTER VIII

### ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY, INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION

#### (A) *Pacific settlement of disputes*

1. The Security Council should be empowered to investigate any dispute, or any situation which may lead to international friction or give rise to a dispute, in order to determine whether its continuance is likely to endanger the maintenance of international peace and security.

2. Any State, whether member of the Organization or not, may bring any such dispute or situation to the attention of the General Assembly or of the Security Council.

3. The parties to any dispute the continuance of which is likely to endanger the maintenance of international peace and security



should obligate themselves, first of all, to seek a solution by negotiation, mediation, conciliation, arbitration or judicial settlement, or other peaceful means of their own choice. The Security Council should call upon the parties to settle their dispute by such means.

4. If, nevertheless, parties to a dispute of the nature referred to in paragraph 3 above fail to settle it by the means indicated in that paragraph, they should obligate themselves to refer it to the Security Council. The Security Council should in each case decide whether or not the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security and, accordingly, whether the Security Council should deal with the dispute, and, if so, whether it should take action under paragraph 5.

5. The Security Council should be empowered at any stage of a dispute of the nature referred to in paragraph 3 above to recommend appropriate procedures or methods of adjustment.

6. Justiciable disputes should normally be referred to the International Court of Justice. The Security Council should be empowered to refer to the Court for advice legal questions connected with other disputes.

7. The provisions of paragraphs 1-6 of Section (A) should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the State concerned.

*(B) Determination of threats to the peace or acts of aggression, and action with respect thereto*

1. Should the Security Council deem that a failure to settle a dispute in accordance with the procedures indicated in paragraph 3 of Section A, or in accordance with its recommendations made under paragraph 5 of Section (A), constitutes a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organization.

2. In general the Security Council should determine the existence of any threat to the peace, breach of the peace or act of aggression and should make recommendations or decide upon the measures to be taken to maintain or restore peace and security.

3. The Security Council should be empowered to determine what diplomatic, economic or other measures not involving the use of armed force should be employed to give effect to its decisions, and to call upon members of the Organization to apply such measures. Such measures may include complete or partial interruption of rail, sea, air, postal, telegraphic, radio and other means of communication and the severance of diplomatic and economic relations.

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4. Should the Security Council consider such measures to be inadequate, it should be empowered to take such action by air, naval or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade and other operations by air, sea or land forces of members of the Organization.

5. In order that all members of the Organization should contribute to the maintenance of international peace and security, they should undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements concluded among themselves, armed forces, facilities and assistance necessary for the purpose of maintaining international peace and security. Such agreement or agreements should govern the numbers and types of forces and the nature of the facilities and assistance to be provided. The special agreement or agreements should be negotiated as soon as possible, and should in each case be subject to approval by the Security Council and to ratification by the Signatory States in accordance with their constitutional processes.

6. In order to enable urgent military measures to be taken by the Organization, there should be held immediately available by the members of the Organization national Air Force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action should be determined by the Security Council, with the assistance of the Military Staff Committee, within the limits laid down in the special agreement or agreements referred to in paragraph 5 above.

7. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security should be taken by all the members of the Organization in co-operation or by some of them as the Security Council may determine. This undertaking should be carried out by the members of the Organization by their own action and through action of the appropriate specialized Organizations and agencies of which they are members.

8. Plans for the application of armed force should be made by the Security Council with the assistance of the Military Staff Committee referred to in paragraph 9 below.

9. There should be established a Military Staff Committee, the functions of which should be to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, to the employment and command of forces placed at its disposal, to the regulation of armaments and to possible disarmament. It should be responsible under the Security Council for the strategic

direction of any armed forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the Organization not permanently represented on the Committee should be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires that such a State should participate in its work. Questions of command of forces should be worked out subsequently.

10. The members of the Organization should join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

11. Any State, whether a member of the Organization or not, which finds itself confronted with special economic problems arising from the carrying out of measures which have been decided upon by the Security Council should have the right to consult the Security Council in regard to a solution of those problems.

### (C) *Regional Arrangements*

1. Nothing in the Charter should preclude the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided such arrangements or agencies and their activities are consistent with the purposes and principles of the Organization. The Security Council should encourage settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the States concerned or by reference from the Security Council.

2. The Security Council should, where appropriate, utilize such arrangements or agencies for enforcement action under its authority but no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council.

3. The Security Council should at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

## CHAPTER IX

### ARRANGEMENTS FOR INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

#### (A) *Purpose and Relationships*

1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among

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nations, the Organization should facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms. Responsibility for the discharge of this function should be vested in the General Assembly and under the authority of the General Assembly in an Economic and Social Council.

2. The various specialized economic, social and other organizations and agencies would have responsibilities in their respective fields as defined in their statutes. Each such organization or agency should be brought into relationship with the Organization on terms to be determined by agreement between the Economic and Social Council and the appropriate authorities of the specialized organization or agency, subject to approval by the General Assembly.

### (B) *Composition and Voting*

The Economic and Social Council should consist of representatives of 18 members of the Organization. The States to be represented for this purpose should be elected by the General Assembly for terms of three years. Each such State should have one representative, who should have one vote. Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting.

### (C) *Functions and powers of the Economic and Social Council*

1. The Economic and Social Council should be empowered:
  - (a) To carry out, within the scope of its functions, recommendations of the General Assembly;
  - (b) To make recommendations on its own initiative with respect to international, economic, social and other humanitarian matters;
  - (c) To receive and consider reports from the economic, social and other organizations or agencies brought into relationship with the Organization, and to co-ordinate their activities through consultations with, and recommendations to, such organizations or agencies;
  - (d) To examine the administrative budgets of such specialized organizations or agencies with a view to making recommendations to the organizations or agencies concerned;
  - (e) To enable the Secretary-General to provide information to the Security Council;
  - (f) To assist the Security Council upon its request; and
  - (g) To perform such other functions within the general scope of its competence as may be assigned to it by the General Assembly.

*(D) Organization and Procedure*

1. The Economic and Social Council should set up an Economic Commission, a Social Commission, and such other Commissions as may be required. These Commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.
2. The Economic and Social Council should make suitable arrangements for representatives of the specialized organizations or agencies to participate without vote in its deliberations and in those of the commissions established by it.
3. The Economic and Social Council should adopt its own rules of procedure and the method of selecting its president.

## CHAPTER X

## THE SECRETARIAT

1. There should be a secretariat comprising a Secretary-General and such staff as may be required. The Secretary-General should be the chief administrative officer of the Organization. He should be elected by the General Assembly on recommendation of the Security Council, for such term and under such conditions as are specified in the Charter.
2. The Secretary-General should act in that capacity in all meetings of the General Assembly, of the Security Council, and of the Economic and Social Council, and should make an annual report to the General Assembly on the work of the Organization.
3. The Secretary-General should have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security.

## CHAPTER XI

## AMENDMENTS

Amendments should come into force for all members of the Organization when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and of a majority of the other members of the Organization.

## CHAPTER XII

## TRANSITIONAL ARRANGEMENTS

1. Pending the coming into force of the special agreement or agreements referred to in Chapter VIII, section (B), paragraph 5,

## DUMBARTON OAKS

and in accordance with the provisions of paragraph 5 of the Four-Nation Declaration, signed at Moscow, October 30, 1943, the States parties to that declaration should consult with one another and as occasion arises with other members of the Organization with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

2. No provision of the Charter should preclude action taken or authorized in relation to enemy States as a result of the present war by the Governments having responsibility for such action.

NOTE. In addition to the question of voting procedure in the Security Council, referred to in Chapter VI, several other questions are still under consideration.

## INTERNATIONAL CIVIL AVIATION CONFERENCE<sup>1</sup>

Chicago, December 7, 1944

The Governments of Afghanistan, Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, Iceland, India, Iran, Iraq, Ireland, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippine Commonwealth, Poland, Portugal, Spain, Sweden, Switzerland, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay, Venezuela, and Yugoslavia were represented.

## CONVENTION ON INTERNATIONAL CIVIL AVIATION

### PREAMBLE

Whereas the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security, and

WHEREAS it is desirable to avoid friction and to promote that co-operation between nations and peoples upon which the peace of the world depends,

<sup>1</sup> Cmd. 6614.

## INTERNATIONAL CIVIL AVIATION CONFERENCE

THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically.

Have accordingly concluded this Convention to that end.

### PART I. AIR NAVIGATION

#### CHAPTER I

##### GENERAL PRINCIPLES AND APPLICATION OF THE CONVENTION

###### *Article 1*

###### Sovereignty

The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

###### *Article 2*

###### Territory

For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

###### *Article 3*

###### Civil and State aircraft

- (a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to State aircraft.
- (b) Aircraft used in military, customs and police services shall be deemed to be State aircraft.
- (c) No State aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.
- (d) The contracting States undertake, when issuing regulations for their State aircraft, that they will have due regard for the safety of navigation of civil aircraft.

###### *Article 4*

###### Misuse of civil aviation

Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.

# INTERNATIONAL CIVIL AVIATION CONFERENCE

## CHAPTER II

### FLIGHT OVER TERRITORY OF CONTRACTING STATES

#### *Article 5*

##### Right of non-scheduled flight

Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

#### *Article 6*

##### Scheduled air services

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

#### *Article 7*

##### Cabotage

Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.



*Article 8*

## Pilotless aircraft

No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft.

*Article 9*

## Prohibited areas

(a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

(b) Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

(c) Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in sub-paragraphs (a) or (b) above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

*Article 10*

## Landing at customs airport

Except in a case where, under the terms of this Convention or a special authorization, aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs

## INTERNATIONAL CIVIL AVIATION CONFERENCE

airports shall be published by the State and transmitted to the International Civil Aviation Organization established under Part II of this Convention for communication to all other contracting States.

### *Article 11*

#### Applicability of air regulations

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

### *Article 12*

#### Rules of the air

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or manoeuvring within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and manoeuvre of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

### *Article 13*

#### Entry and clearance regulations

The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

### *Article 14*

#### Prevention of spread of disease

Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague, and such other communicable diseases as the contracting States shall from time to time decide

## INTERNATIONAL CIVIL AVIATION CONFERENCE

to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international convention on this subject to which the contracting States may be parties.

### *Article 15*

#### Airport and similar charges

Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher,

- (a) as to aircraft not engaged in scheduled international air services, than those that would be paid by its national aircraft of the same class engaged in similar operations, and
- (b) as to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.

All such charges shall be published and communicated to the International Civil Aviation Organization: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be imposed to any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

### *Article 16*

#### Search of aircraft

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

# INTERNATIONAL CIVIL AVIATION CONFERENCE

## CHAPTER III

### NATIONALITY OF AIRCRAFT

#### *Article 17*

#### Nationality of aircraft

Aircraft have the nationality of the State in which they are registered.

#### *Article 18*

#### Dual registration

An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

#### *Article 19*

#### National laws governing registration

The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

#### *Article 20*

#### Display of marks

Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

#### *Article 21*

#### Report of registrations

Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization, under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by it on request to the other contracting States.

## CHAPTER IV

### MEASURES TO FACILITATE AIR NAVIGATION

#### *Article 22*

#### Facilitation of formalities

Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of con-

## INTERNATIONAL CIVIL AVIATION CONFERENCE

tracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

### *Article 23*

#### Customs and immigration procedures

Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

### *Article 24*

#### Customs duty

(a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

(b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

### *Article 25*

#### Aircraft in distress

Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in co-ordinated measures which may be recommended from time to time pursuant to this Convention.

*Article 26*

## Investigation of Accidents

In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

*Article 27*

## Exemption from seizure on patent claims

(a) While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

(b) The provisions of paragraph (a) of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally in or exported commercially from the contracting State entered by the aircraft.

(c) The benefits of this Article shall apply only to such States, parties to this Convention, as either (1) are parties to the International Convention for the Protection of Industrial Property<sup>1</sup> and to any amendments thereof; or (2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

<sup>1</sup> Treaty Series No. 55 (1938), Cmd. 5833.

*Article 28*

## Air navigation facilities and standard systems

Each contracting State undertakes, so far as it may find practicable to:

- (a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;
- (b) Adopt and put into operation the appropriate standard systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;
- (c) Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

## CHAPTER V

## CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT

*Article 29*

## Documents carried in aircraft

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

- (a) Its certificate of registration;
- (b) Its certificate of airworthiness;
- (c) The appropriate licences for each member of the crew;
- (d) Its journey log book;
- (e) If it is equipped with radio apparatus, the aircraft radio station licence;
- (f) If it carries passengers, a list of their names and places of embarkation and destination;
- (g) If it carries cargo, a manifest and detailed declarations of the cargo.

*Article 30*

## Aircraft radio equipment

(a) Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a licence to install and operate such apparatus has been issued by

## INTERNATIONAL CIVIL AVIATION CONFERENCE

the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State.

(b) Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special licence for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

### *Article 31*

#### Certificates of airworthiness

Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered.

### *Article 32*

#### Licences of personnel

(a) The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licences issued or rendered valid by the State in which the aircraft is registered.

(b) Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licences granted to any of its nationals by another contracting State.

### *Article 33*

#### Recognition of certificates and licences

Certificates of airworthiness and certificates of competency and licences issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.

### *Article 34*

#### Journey log books

There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention.



*Article 35*

## Cargo restrictions

(a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.

(b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

*Article 36*

## Photographic apparatus

Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory.

## CHAPTER VI

## INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

*Article 37*

## Adoption of international standards and procedures

Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with:

- (a) Communications systems and air navigation aids, including ground marking;
- (b) Characteristics of airports and landing areas;
- (c) Rules of the air and air traffic control practices;

## INTERNATIONAL CIVIL AVIATION CONFERENCE

- (d) Licensing of operating and mechanical personnel;
- (e) Airworthiness of aircraft;
- (f) Registration and identification of aircraft;
- (g) Collection and exchange of meteorological information;
- (h) Log Books;
- (i) Aeronautical maps and charts;
- (j) Customs and immigration procedures;
- (k) Aircraft in distress and investigation of accidents;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

### *Article 38*

#### Departures from international standards and procedures

Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within 60 days of the adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other States of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

### *Article 39*

#### Endorsement of certificates of licences

(a) Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

(b) Any person holding a licence who does not satisfy in full the conditions laid down in the international standard relating to the class of licence or certificate which he holds shall have endorsed on or attached to his licence a complete enumeration of the particulars in which he does not satisfy such conditions.

## INTERNATIONAL CIVIL AVIATION CONFERENCE

### *Article 40*

#### Validity of endorsed certificates and licences

No aircraft or personnel having certificates or licences so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

### *Article 41*

#### Recognition of existing standards of airworthiness

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

### *Article 42*

#### Recognition of existing standards of competency of personnel

The provisions of this Chapter shall not apply to personnel whose licences are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licences remain valid five years after the date of adoption of such standard.

## PART II. THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

### CHAPTER VII THE ORGANIZATION

### *Article 43*

#### Name and composition

An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary.

### *Article 44*

#### Objectives

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to

## INTERNATIONAL CIVIL AVIATION CONFERENCE

foster the planning and development of international air transport so as to:

- (a) Ensure the safe and orderly growth of international civil aviation throughout the world;
- (b) Encourage the arts of aircraft design and operation for peaceful purposes;
- (c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;
- (d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;
- (e) Prevent economic waste caused by unreasonable competition;
- (f) Ensure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;
- (g) Avoid discrimination between contracting States;
- (h) Promote safety of flight in international air navigation;
- (i) Promote generally the development of all aspects of international civil aeronautics.

### *Article 45*

The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council.

### *Article 46*

#### First Meeting of Assembly

The first meeting of the Assembly shall be summoned by the Interim Council of the above-mentioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

### *Article 47*

#### Legal capacity

The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

# INTERNATIONAL CIVIL AVIATION CONFERENCE

## CHAPTER VIII

### THE ASSEMBLY

#### *Article 48*

##### Meetings of Assembly and voting

(a) The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings for the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General.

(b) All contracting States shall have an equal right to be represented at the meetings of the Assembly and each contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

(c) A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

#### *Article 49*

##### Powers and duties of Assembly

The powers and duties of the Assembly shall be to:

- (a) Elect at each meeting its President and other officers;
- (b) Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;
- (c) Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;
- (d) Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;
- (e) Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;
- (f) Review expenditures and approve the accounts of the Organization;
- (g) Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;
- (h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the Organization and revoke or modify the delegations of authority at any time;
- (i) Carry out the appropriate provisions of Chapter XIII;

## INTERNATIONAL CIVIL AVIATION CONFERENCE

- (j) Consider proposals for the modification or amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI
- (k) Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

### CHAPTER IX

#### THE COUNCIL

##### *Article 50*

#### Composition and election of Council

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of 21 contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

(b) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will ensure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

(c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

##### *Article 51*

#### President of Council

The Council shall elect its President for a term of three years. He may be re-elected. He shall have no vote. The Council shall elect from among its members one or more Vice-Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

- (a) Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;

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- (b) Serve as representative of the Council; and
- (c) Carry out on behalf of Council the functions which the Council assigns to him.

### *Article 52*

#### Voting in Council

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

### *Article 53*

#### Participation without a vote

Any contracting State may participate, without a vote, in the consideration by the Council and by its committees and commissions of any question which especially affects its interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

### *Article 54*

#### Mandatory functions of Council

The Council shall:

- (a) Submit annual reports to the Assembly;
- (b) Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;
- (c) Determine its organization and rules of procedure;
- (d) Appoint and define the duties of an Air Transport Committee, which shall be chosen from among the representatives of the members of the Council, and which shall be responsible to it;
- (e) Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;
- (f) Administer the finances of the Organization in accordance with the provisions of Chapters XII and XV;
- (g) Determine the emoluments of the President of the Council;
- (h) Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;
- (i) Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;

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- (j) Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;
- (k) Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;
- (l) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience designate them as Annexes to this Convention; and notify all contracting States of the action taken;
- (m) Consider recommendations of the Air Navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;
- (n) Consider any matter relating to the Convention which any contracting State refers to it.

### *Article 55*

#### Permissive functions of Council

The Council may:

- (a) Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define groups of States or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;
- (b) Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;
- (c) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;
- (d) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;
- (e) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.



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## CHAPTER X

### THE AIR NAVIGATION COMMISSION

#### *Article 56*

#### Nomination and appointment of Commission

The Air Navigation Commission shall be composed of twelve members appointed by the Council from among persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.

#### *Article 57*

#### Duties of Commission

The Air Navigation Commission shall:

- (a) Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;
- (b) Establish technical sub-commissions on which any contracting State may be represented, if it so desires;
- (c) Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

## CHAPTER XI

### PERSONNEL

#### *Article 58*

#### Appointment of personnel

Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances and conditions of service of the Secretary General and other personnel of the Organization, and may employ or make use of the services of nationals of any contracting State.

#### *Article 59*

#### International character of personnel

The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel

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and not to seek to influence any of its nationals in the discharge of their responsibilities.

### *Article 60*

#### Immunities and privileges of personnel

Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Secretary General, and the other personnel of the Organization the immunities and privileges which are accorded to corresponding personnel of other public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

## CHAPTER XII

### FINANCE

### *Article 61*

#### Budget and apportionment of expenses

The Council shall submit to the Assembly an annual budget and annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

### *Article 62*

#### Suspension of voting power

The Assembly may suspend the voting power in the Assembly of any member in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

### *Article 63*

#### Expenses of delegations and other representatives

Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, any of its nominees or representatives on any subsidiary committees or commissions of the Organization.

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## CHAPTER XIII

### OTHER INTERNATIONAL ARRANGEMENTS

#### *Article 64*

##### Security arrangements

The Organization may, with respect to air matters within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

#### *Article 65*

##### Arrangements with other international bodies

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

#### *Article 66*

##### Functions relating to other agreements

(a) The Organization shall also carry out the functions placed upon it by the International Air Services Transit Agreement and by the International Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions therein set forth.

(b) Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement or the International Air Transport Agreement drawn up at Chicago on December 7, 1944, shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

## PART III. INTERNATIONAL AIR TRANSPORT

### CHAPTER XIV

#### INFORMATION AND REPORTS

#### *Article 67*

##### File reports with Council

Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

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## CHAPTER XV

### AIRPORTS AND OTHER AIR NAVIGATION FACILITIES

#### *Article 68*

#### Designation of routes and airports

Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

#### *Article 69*

#### Improvement of air navigation facilities

If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations.

#### *Article 70*

#### Financing of air navigation facilities

A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an arrangement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs.

#### *Article 71*

#### Provision and maintenance of facilities by Council

If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities, including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

#### *Article 72*

#### Acquisition or use of land

Where land is needed for facilities financed in whole or in part by

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the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned.

### *Article 73*

#### Expenditure and assessment of funds

Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the Organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting States consenting thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required.

### *Article 74*

#### Technical assistance and utilization of revenues

When the Council, at the request of a contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities, of the operating expenses of the airports and the other facilities, and of interest and amortization charges.

### *Article 75*

#### Taking over of facilities from Council

A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council is unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council.

### *Article 76*

#### Return of funds

Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by

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States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council.

### CHAPTER XVI

#### JOINT OPERATING ORGANIZATIONS AND POOLED SERVICES

##### *Article 77*

#### Joint operating organizations permitted

Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organizations or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

##### *Article 78*

#### Function of Council

The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions.

##### *Article 79*

#### Participation in operating organizations

A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline company or companies designated by its government. The companies may, at the sole discretion of the State concerned, be state-owned or partly state-owned or privately-owned.

## PART IV. FINAL PROVISIONS

### CHAPTER XVII

#### OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS

##### *Article 80*

#### Paris and Habana Conventions

Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed

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at Paris on October 13, 1919,<sup>1</sup> or the Convention on Commercial Aviation signed at Habana on February 20, 1928,<sup>2</sup> if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

### *Article 81*

#### Registration of existing agreements

All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

### *Article 82*

#### Abrogation of inconsistent arrangements

The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting State or of a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

### *Article 83*

#### Registration of new arrangements

Subject to the provisions of the preceding Article, any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

<sup>1</sup> Treaty Series No. 2 (1922), Cmd. 1609.

<sup>2</sup> League of Nations Treaty Series No. 2963.

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### CHAPTER XVIII

#### DISPUTES AND DEFAULT

##### *Article 84*

##### Settlement of disputes

If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an *ad hoc* arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

##### *Article 85*

##### Arbitration procedure

If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within 30 days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

##### *Article 86*

##### Appeals

Unless the Council decides otherwise, any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council



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shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

### *Article 87*

#### Penalty for non-conformity by airline

Each contracting State undertakes not to allow the operation of an airline of a contracting State through the air space above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

### *Article 88*

#### Penalty for non-conformity by State

The Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this Chapter.

## CHAPTER XIX

### WAR

### *Article 89*

#### War and emergency conditions

In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

## CHAPTER XX

### ANNEXES

### *Article 90*

#### Adoption and Amendment of Annexes

(a) The adoption by the Council of the Annexes described in Article 54, subparagraph (1), shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.

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(b) The Council shall immediately notify all contracting States of the coming into force of any Annex or amendment thereto.

### CHAPTER XXI

#### RATIFICATIONS, ADHERENCES, AMENDMENTS, AND DENUNCIATIONS

##### *Article 91*

##### Ratification of Convention

(a) This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United States of America, which shall give notice of the date of the deposit to each of the signatory and adhering States.

(b) As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

(c) It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

##### *Article 92*

##### Adherence to Convention

(a) This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict.

(b) Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect as from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

##### *Article 93*

##### Admission of other States

States other than those provided for in Articles 91 and 92 (a) may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.

*Article 94*

Amendment of Convention

(a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States.

(b) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

*Article 95*

Denunciation of Convention

(a) Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America, which shall at once inform each of the contracting States.

(b) Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as regards the State effecting the denunciation.

CHAPTER XXII

DEFINITIONS

*Article 96*

For the purpose of this Convention the expression:

- (a) "Air Service" means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.
- (b) "International air service" means an air service which passes through the air space over the territory of more than one State.
- (c) "Airline" means any air transport enterprise offering or operating an international air service.
- (d) "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

SIGNATURE OF CONVENTION

In witness whereof, the undersigned Plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

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DONE at Chicago the 7th day of December, 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be opened for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention.

For the Government of . . . . .

### APPENDIX III

#### INTERNATIONAL AIR SERVICES TRANSIT AGREEMENT

The States which sign and accept this International Air Services Transit Agreement, being members of the International Civil Aviation Organization, declare as follows:

#### *Article 1*

##### Section 1

Each contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services:

1. The privilege to fly across its territory without landing;
2. The privilege to land for non-traffic purposes.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such privileges shall be subject to the approval of the competent military authorities.

##### Section 2

The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation and, when it comes into force, with the provisions of the Convention on International Civil Aviation, both drawn up at Chicago on December 7, 1944.

##### Section 3

A contracting State granting to the airlines of another contracting State the privilege to stop for non-traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

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Such requirement shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of a contracting State.

### Section 4

Each contracting State may, subject to the provisions of this Agreement,

1. Designate the route to be followed within its territory by any international air service and the airports which any such service may use;
2. Impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council of the International Civil Aviation Organization established under the above-mentioned Convention, which shall report and make recommendations thereon for the consideration of the State or States concerned.

### Section 5

Each contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

## *Article II*

### Section 1

A contracting State which deems that action by another contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the Council may make appropriate findings and recommendations to the contracting States concerned. If thereafter a contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may

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recommend to the Assembly of the above-mentioned Organization that such contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The Assembly by a two-thirds vote may so suspend such contracting State for such period of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

### Section 2

If any disagreement between two or more contracting States relating to the interpretation or application of this Agreement cannot be settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference to any disagreement relating to the interpretation or application of the above-mentioned Convention.

### *Article III*

This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other contracting States of such notice and withdrawal.

### *Article IV*

Pending the coming into force of the above-mentioned Convention, all references to it herein, other than those contained in Article II, Section 2, and Article V, shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and Interim Council, respectively.

### *Article V*

For the purposes of this Agreement, "territory" shall be defined as in Article 2 of the above-mentioned Convention.

### *Article VI*

#### SIGNATURES AND ACCEPTANCES OF AGREEMENT

The undersigned delegates to the International Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding

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that the Government of the United States of America shall be informed at the earliest possible date by each of the governments on whose behalf the Agreement has been signed whether signature on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

Any State a member of the International Civil Aviation Organization may accept the present Agreement as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

IN WITNESS WHEREOF, the undersigned, having been duly authorized, sign this Agreement on behalf of their respective governments on the dates appearing opposite their respective signatures.

DONE at Chicago the seventh day of December, 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be opened for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or accept this Agreement.

## APPENDIX IV

### INTERNATIONAL AIR TRANSPORT AGREEMENT

The States which sign and accept this International Air Transport Agreement being members of the International Civil Aviation Organization declare as follows:

#### *Article I*

##### Section 1

Each contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services:

1. The privilege to fly across its territory without landing;
2. The privilege to land for non-traffic purposes;

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3. The privilege to put down passengers, mail and cargo taken on in the territory of the State whose nationality the aircraft possesses;
4. The privilege to take on passengers, mail and cargo destined for the territory of the State whose nationality the aircraft possesses;
5. The privilege to take on passengers, mail and cargo destined for the territory of any other contracting State and the privilege to put down passengers, mail and cargo coming from any such territory.

With respect to the privileges specified under paragraphs 3, 4 and 5 of this Section, the undertaking of each contracting State relates only to through services on a route constituting a reasonably direct line out from and back to the homeland of the State whose nationality the aircraft possesses.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such privileges shall be subject to the approval of the competent military authorities.

### **Section 2**

The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation and, when it comes into force, with the provisions of the Convention on International Civil Aviation, both drawn up at Chicago on December 7, 1944.

### **Section 3**

A contracting State granting to the airlines of another contracting State the privilege to stop for non-traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

Such requirement shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of any contracting State.

### **Section 4**

Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory pas-



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sengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

### Section 5

Each contracting State may, subject to the provisions of this Agreement,

1. Designate the route to be followed within its territory by any international air service and the airports which any such service may use;
2. Impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council of the International Civil Aviation Organization established under the above-mentioned Convention, which shall report and make recommendations thereon for the consideration of the State or States concerned.

### Section 6

Each contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

## *Article II*

### Section 1

The contracting States accept this Agreement as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which has undertaken any other obligations inconsistent with this Agreement shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent

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obligations, the State of which it is a national shall use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Agreement.

### Section 2

Subject to the provisions of the preceding Section, any contracting State may make arrangements concerning international air services not inconsistent with this Agreement. Any such arrangement shall be forthwith registered with the Council; which shall make it public as soon as possible.

### *Article III*

Each contracting State undertakes that in the establishment and operation of through services due consideration shall be given to the interests of the other contracting States so as not to interfere unduly with their regional services or to hamper the development of their through services.

### *Article IV*

#### Section 1

Any contracting State may by reservation attached to this Agreement at the time of signature or acceptance elect not to grant and receive the rights and obligations of Article I, Section 1, paragraph 5, and may at any time after acceptance, on six months' notice given by it to the Council, withdraw itself from such rights and obligations. Such contracting State may on six months' notice to the Council assume or resume, as the case may be, such rights and obligations. No contracting State shall be obliged to grant any right under the said paragraph to any contracting State not bound thereby.

#### Section 2

A contracting State which deems that action by another contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the Council may make appropriate findings and recommendations to the contracting States concerned. If thereafter a contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may recommend to the Assembly of the above-mentioned Organization that such contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The Assembly by a two-thirds vote may so suspend such contracting State for such period

## INTERNATIONAL CIVIL AVIATION CONFERENCE

of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

### Section 3

If any disagreement between two or more contracting States relating to the interpretation or application of this Agreement cannot be settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference to any disagreement relating to the interpretation or application of the above-mentioned Convention.

### *Article V*

This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other contracting States of such notice and withdrawal.

### *Article VI*

Pending the coming into force of the above-mentioned Convention, all references to it herein other than those contained in Article IV, Section 3, and Article VII shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and the Interim Council, respectively.

### *Article VII*

For the purposes of this Agreement, "territory" shall be defined as in Article 2 of the above-mentioned Convention.

### *Article VIII*

#### SIGNATURES AND ACCEPTANCES OF AGREEMENT

The undersigned delegates to the International Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding that the Government of the United States of America shall be informed at the earliest possible date by each of the governments on whose behalf the Agreement has been signed whether signature on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

## INTERNATIONAL CIVIL AVIATION CONFERENCE

Any State a member of the International Civil Aviation Organization may accept the present Agreement as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

IN WITNESS WHEREOF, the undersigned, having been duly authorized, sign this Agreement on behalf of their respective governments on the date appearing opposite their respective signatures.

DONE at Chicago the seventh day of December, 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be opened for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or accept this Agreement.

## REPORT OF THE CRIMEA CONFERENCE<sup>1</sup>

February 11, 1945

The following statement is made by the Prime Minister of Great Britain, the President of the United States of America, and the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics, on the results of the Crimea Conference.

### I. THE DEFEAT OF GERMANY

We have considered and determined the military plans of the three Allied Powers for the final defeat of the common enemy. The military staffs of the three allied nations have met in daily meetings throughout the Conference. These meetings have been most satisfactory from every point of view and have resulted in closer coordination of the military effort of the three Allies than ever before.

<sup>1</sup> Cmd. 6598.

The fullest information has been interchanged. The timing, scope and co-ordination of new and even more powerful blows to be launched by our armies and air forces into the heart of Germany from the East, West, North and South have been fully agreed and planned in detail.

Our combined military plans will be made known only as we execute them, but we believe that the very close working partnership among the three staffs attained at this Conference will result in shortening the war. Meetings of the three staffs will be continued in the future whenever the need arises.

Nazi Germany is doomed. The German people will only make the cost of their defeat heavier to themselves by attempting to continue a hopeless resistance.

## II. THE OCCUPATION AND CONTROL OF GERMANY

We have agreed on common policies and plans for enforcing the unconditional surrender terms which we shall impose together on Nazi Germany after German armed resistance has been finally crushed. These terms will not be made known until the final defeat of Germany has been accomplished. Under the agreed plan, the forces of the Three Powers will each occupy a separate zone of Germany. Co-ordinated administration and control has been provided for under the plan through a central Control Commission consisting of the Supreme Commanders of the Three Powers with headquarters in Berlin. It has been agreed that France should be invited by the Three Powers, if she should so desire, to take over a zone of occupation, and to participate as a fourth member of the Control Commission. The limits of the French zone will be agreed by the four Governments concerned through their representatives on the European Advisory Commission.

It is our inflexible purpose to destroy German militarism and Nazism and to ensure that Germany will never again be able to disturb the peace of the world. We are determined to disarm and disband all German armed forces; break up for all time the German General Staff that has repeatedly contrived the resurgence of German militarism; remove or destroy all German military equipment; eliminate or control all German industry that could be used for military production; bring all war criminals to just and swift punishment and exact reparation in kind for the destruction wrought by the Germans; wipe out the Nazi party, Nazi laws, organizations and institutions, remove all Nazi and militarist influences from public office and from the cultural and economic life of the German people; and take in harmony such other measures in Germany as may be necessary to the future peace and safety of the world. It is not our

## CRIMEA CONFERENCE

purpose to destroy the people of Germany, but only when Nazism and militarism have been extirpated, will there be hope for a decent life for Germans, and a place for them in the comity of nations.

### III. REPARATION BY GERMANY

We have considered the question of the damage caused by Germany to the Allied Nations in this war and recognized it as just that Germany be obliged to make compensation for this damage in kind to the greatest extent possible. A Commission for the Compensation of Damage will be established. The Commission will be instructed to consider the question of the extent and methods for compensating damage caused by Germany to the Allied countries. The Commission will work in Moscow.

### IV. UNITED NATIONS CONFERENCE

We are resolved upon the earliest possible establishment with our Allies of a general international organization to maintain peace and security. We believe that this is essential, both to prevent aggression and to remove the political, economic and social causes of war through the close and continuing collaboration of all peace-loving peoples.

The foundations were laid at Dumbarton Oaks. On the important question of voting procedure, however, agreement was not there reached. The present conference has been able to resolve this difficulty.

We have agreed that a Conference of United Nations should be called to meet at San Francisco in the United States on April 25, 1945, to prepare the charter of such an organization, along the lines proposed in the informal conversations at Dumbarton Oaks.

The Government of China and the Provisional Government of France will be immediately consulted and invited to sponsor invitations to the Conference jointly with the Governments of the United States, Great Britain and the Union of Soviet Socialist Republics. As soon as the consultation with China and France has been completed, the text of the proposals on voting procedure will be made public.

### V. DECLARATION ON LIBERATED EUROPE

We have drawn up and subscribed to a declaration on liberated Europe. This declaration provides for concerting the policies of the Three Powers and for joint action by them in meeting the political and economic problems of liberated Europe in accordance with democratic principles. The text of the Declaration is as follows:

The Premier of the Union of Soviet Socialist Republics, the Prime Minister of the United Kingdom, and the President of the United States of America have consulted with each other in the common interests of the peoples of their countries and those of liberated Europe. They jointly declare their mutual agreement to concert during the temporary period of instability in liberated Europe the policies of their three Governments in assisting the peoples liberated from the domination of Nazi Germany and the peoples of the former Axis satellite States of Europe to solve by democratic means their pressing political and economic problems.

The establishment of order in Europe and the rebuilding of national economic life must be achieved by processes which will enable the liberated peoples to destroy the last vestiges of Nazism and Fascism, and to create democratic institutions of their own choice. This is a principle of the Atlantic Charter—the right of all peoples to choose the form of government under which they will live—the restoration of sovereign rights and self-government to those peoples who have been forcibly deprived of them by the aggressor nations.

To foster the conditions in which the liberated peoples may exercise those rights, the three Governments will jointly assist the people in any European liberated State or former Axis satellite State in Europe where in their judgment conditions require: (a) to establish conditions of internal peace; (b) to carry out emergency measures for the relief of distressed peoples; (c) to form interim governmental authorities broadly representative of all democratic elements in the population and pledged to the earliest possible establishment through free elections of Governments responsive to the will of the people; and (d) to facilitate where necessary the holding of such elections.

The three Governments will consult the other United Nations and provisional authorities or other Governments in Europe when matters of direct interest to them are under consideration.

When, in the opinion of the three Governments, conditions in any European liberated State or any former Axis satellite State in Europe make such action necessary, they will immediately consult together on the measures necessary to discharge the joint responsibilities set forth in this declaration.

By this declaration we reaffirm our faith in the principles of the Atlantic Charter, our pledge in the declaration by the United Nations, and our determination to build in co-operation with other peace-loving nations a world order under law, dedicated to peace, security, freedom and the general well-being of all mankind.

In issuing this declaration, the Three Powers express the hope that

## CRIMEA CONFERENCE

the Provisional Government of the French Republic may be associated with them in the procedure suggested.

### VI. POLAND

We came to the Crimea Conference resolved to settle our differences about Poland. We discussed fully all aspects of the question. We reaffirm our common desire to see established a strong, free, independent and democratic Poland. As a result of our discussions we have agreed on the conditions in which a new Polish Provisional Government of National Unity may be formed in such a manner as to command recognition by the three major Powers.

The agreement reached is as follows:

A new situation has been created in Poland as a result of her complete liberation by the Red Army. This calls for the establishment of a Polish Provisional Government which can be more broadly based than was possible before the recent liberation of western Poland. The Provisional Government which is now functioning in Poland should therefore be reorganized on a broader democratic basis with the inclusion of democratic leaders from Poland itself and from Poles abroad. This new Government should then be called the Polish Provisional Government of National Unity.

M. Molotov, Mr Harriman and Sir A. Clark Kerr are authorized as a Commission to consult in the first instance in Moscow with members of the present Provisional Government and with other Polish democratic leaders from within Poland and from abroad, with a view to the reorganization of the present Government along the above lines. This Polish Provisional Government of National Unity shall be pledged to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot. In these elections all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates.

When a Polish Provisional Government of National Unity has been properly formed in conformity with the above, the Government of the Union of Soviet Socialist Republics, which now maintains diplomatic relations with the present Provisional Government of Poland, and the Government of the United Kingdom and the Government of the United States will establish diplomatic relations with the new Polish Government of National Unity, and will exchange Ambassadors by whose reports the respective Governments will be kept informed about the situation in Poland.

The three Heads of Government consider that the eastern frontier of Poland should follow the Curzon line with digressions from it in some regions of five to eight kilometres in favour of Poland. They



recognize that Poland must receive substantial accessions of territory in the North and West. They feel that the opinion of the new Polish Provisional Government of National Unity should be sought in due course on the extent of these accessions and that the final delimitation of the western frontier of Poland should thereafter await the Peace Conference.

#### VII. YUGOSLAVIA

We have agreed to recommend to Marshal Tito and Dr Subasić that the Agreement between them should be put into effect immediately, and that a new Government should be formed on the basis of that Agreement.

We also recommend that as soon as the new Government has been formed it should declare that—

- (i) The Anti-Fascist Assembly of National Liberation (Avnoј) should be extended to include members of the last Yugoslav Parliament (Skupština) who have not compromised themselves by collaboration with the enemy, thus forming a body to be known as a temporary Parliament; and
- (ii) Legislative acts passed by the Assembly of National Liberation will be subject to subsequent ratification by a Constituent Assembly.

There was also a general review of other Balkan questions.

#### VIII. MEETINGS OF FOREIGN SECRETARIES

Throughout the Conference, besides the daily meetings of the Heads of Governments and the Foreign Secretaries, separate meetings of the three Foreign Secretaries, and their advisers, have also been held daily.

These meetings have proved of the utmost value and the Conference agreed that permanent machinery should be set up for regular consultation between the three Foreign Secretaries. They will, therefore, meet as often as may be necessary, probably about every three or four months. These meetings will be held in rotation in the three Capitals, the first meeting being held in London, after the United Nations Conference on World Organization.

#### IX. UNITY FOR PEACE AS FOR WAR

Our meeting here in the Crimea has reaffirmed our common determination to maintain and strengthen in the peace to come that unity of purpose and of action which has made victory possible and certain for the United Nations in this war. We believe that this is a sacred obligation which our Governments owe to our peoples and to all the peoples of the world.

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Only with continuing and growing co-operation and understanding among our three countries, and among all the peace-loving nations, can the highest aspiration of humanity be realized—a secure and lasting peace which will, in the words of the Atlantic Charter “Afford assurance that all the men in all the lands may live out their lives in freedom from fear and want.”

Victory in this war and establishment of the proposed international organization will provide the greatest opportunity in all history to create in the years to come the essential conditions of such a peace.

*(Signed)*

WINSTON S. CHURCHILL  
FRANKLIN D. ROOSEVELT  
J. V. STALIN

## UNITED NATIONS CONFERENCE<sup>1</sup>

Documents adopted at San Francisco, June 26, 1945

### CHARTER OF THE UNITED NATIONS<sup>2</sup>

We, the peoples of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

and for these ends

to practise tolerance and live together in peace with one another as good neighbours, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims.

<sup>1</sup> H.M. Stationery Office for United Nations Information Organization, 1945.

<sup>2</sup> See Addendum, p. 267. Statement by the Delegations of the Four Sponsoring Governments on Voting Procedure in the Security Council, June 7, 1945.

Accordingly, our respective Governments, through representatives assembled in the City of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

## CHAPTER I

### PURPOSES AND PRINCIPLES

#### *Article 1*

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

#### *Article 2*

The Organization and its Members, in pursuit of the purposes stated in Article 1, shall act in accordance with the following principles:

1. The Organization is based on the principle of the sovereign equality of all its members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

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4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that States which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

## CHAPTER II

### MEMBERSHIP

#### *Article 3*

The original members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

#### *Article 4*

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgement of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

#### *Article 5*

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the

Security Council. The exercise of these rights and privileges may be restored by the Security Council.

*Article 6*

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III

ORGANS

*Article 7*

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

*Article 8*

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV

THE GENERAL ASSEMBLY

COMPOSITION

*Article 9*

1. The General Assembly shall consist of all the Members of the United Nations.

2. Each Member shall have not more than five representatives in the General Assembly.

FUNCTIONS AND POWERS

*Article 10*

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the members of the United Nations or to the Security Council or to both on any such questions or matters.

*Article 11*

1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question, on which action is necessary, shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this article shall not limit the general scope of Article 10.

*Article 12*

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

*Article 13*

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

- (a) Promoting international co-operation in the political field and encouraging the progressive development of international law and its codification;
- (b) Promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the

realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

*Article 14*

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

*Article 15*

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from other organs of the United Nations.

*Article 16*

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

*Article 17*

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

VOTING

*Article 18*

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting.

## **SAN FRANCISCO CONFERENCE**

These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

### *Article 19*

A member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

## **PROCEDURE**

### *Article 20*

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

### *Article 21*

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

### *Article 22*

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

## **CHAPTER V**

### **THE SECURITY COUNCIL COMPOSITION**

### *Article 23*

1. The Security Council shall consist of 11 Members of the United Nations. The Republic of China, France, the Union of Soviet



Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance, to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

#### FUNCTIONS AND POWERS

##### *Article 24*

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

##### *Article 25*

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

##### *Article 26*

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

## SAN FRANCISCO CONFERENCE

### VOTING

#### *Article 27*

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

### PROCEDURE

#### *Article 28*

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgement will best facilitate its work.

#### *Article 29*

The Security Council may establish subsidiary organs as it deems necessary for the performance of its functions.

#### *Article 30*

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

#### *Article 31*

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

#### *Article 32*

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the

Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute.

The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

## CHAPTER VI

### PACIFIC SETTLEMENT OF DISPUTES

#### *Article 33*

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

#### *Article 34*

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

#### *Article 35*

1. Any Member of the United Nations may bring any dispute or any situation of the nature referred to in Article 34 to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party, if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this article will be subject to the provisions of Articles 11 and 12.

#### *Article 36*

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

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3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

### *Article 37*

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

### *Article 38*

Without prejudice to the provisions of Articles 33–37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

## CHAPTER VII

### ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

### *Article 39*

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

### *Article 40*

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

### *Article 41*

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its

decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

*Article 42*

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade and other operations by air, sea or land forces of Members of the United Nations.

*Article 43*

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

*Article 44*

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that member, if the member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

*Article 45*

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans

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for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43 by the Security Council with the assistance of the Military Staff Committee.

### *Article 46*

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

### *Article 47*

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

### *Article 48*

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

### *Article 49*

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

*Article 50*

If preventive or enforcement measures against any State are taken by the Security Council, any other State, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures, shall have the right to consult the Security Council with regard to a solution of those problems.

*Article 51*

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

## CHAPTER VIII

## REGIONAL ARRANGEMENTS

*Article 52*

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

*Article 53*

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its

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authority. But no enforcement action shall be taken under regional arrangements, or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy State, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy State as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

### *Article 54*

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

## CHAPTER IX

### INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

### *Article 55*

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- (a) higher standards of living, full employment, and conditions of economic and social progress and development;
- (b) solutions of international economic, social, health and related problems; and international cultural and educational co-operation; and
- (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

### *Article 56*

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

### *Article 57*

1. The various specialized agencies, established by inter-governmental agreement and having wide international responsibilities,



as defined in their basic instruments, in economic, social, cultural, educational, health and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

*Article 58*

The Organization shall make recommendations for the co-ordination of the policies and activities of the specialized agencies.

*Article 59*

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

*Article 60*

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X

THE ECONOMIC AND SOCIAL COUNCIL

COMPOSITION

*Article 61*

1. The Economic and Social Council shall consist of 18 Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election, 18 members of the Economic and Social Council shall be chosen, the term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

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### FUNCTIONS AND POWERS

#### *Article 62*

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

#### *Article 63*

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

#### *Article 64*

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

#### *Article 65*

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

*Article 66*

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

VOTING

*Article 67*

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

PROCEDURE

*Article 68*

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

*Article 69*

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

*Article 70*

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

*Article 71*

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence.

Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

*Article 72*

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on request of a majority of its members.

CHAPTER XI

DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

*Article 73*

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and to this end:

- (a) To ensure, with due respect for the culture of the peoples concerned, their political, economic, social and educational advancement, their just treatment, and their protection against abuses;
- (b) To develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
- (c) To further international peace and security;
- (d) To promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic and scientific purposes set forth in this Article; and
- (e) To transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

*Article 74*

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good neighbourliness due account being taken of the interests and well-being of the rest of the world, in social, economic and commercial matters.

## CHAPTER XII

## INTERNATIONAL TRUSTEESHIP SYSTEM

*Article 75*

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as Trust Territories.

*Article 76*

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- (a) To further international peace and security;
- (b) To promote the political, economic, social and educational advancement of the inhabitants of the Trust Territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the people concerned, and as may be provided by the terms of each trusteeship agreement;
- (c) To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- (d) To ensure equal treatment in social, economic and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

*Article 77*

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

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- (a) Territories now held under mandate;
- (b) Territories which may be detached from enemy states as a result of the Second World War; and
- (c) Territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

### *Article 78*

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

### *Article 79*

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

### *Article 80*

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79 and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

### *Article 81*

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

### *Article 82*

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory

to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

*Article 83*

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

*Article 84*

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

*Article 85*

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII

THE TRUSTEESHIP COUNCIL  
COMPOSITION

*Article 86*

1. The Trusteeship Council shall consist of the following Members of the United Nations:

(a) Those Members administering trust territories;

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- (b) Such of those members mentioned by name in Article 23 as are not administering trust territories; and
  - (c) As many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.
2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

## FUNCTIONS AND POWERS

### *Article 87*

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- (a) Consider reports submitted by the administering authority;
- (b) Accept petitions and examine them in consultation with the administering authority;
- (c) Provide for periodic visits to the respective Trust Territories at times agreed upon with the administering authority; and
- (d) Take these and other actions in conformity with the terms of the trusteeship agreements.

### *Article 88*

The Trusteeship Council shall formulate a *questionnaire* on the political, economic, social and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such a *questionnaire*.

## VOTING

### *Article 89*

- 1. Each member of the Trusteeship Council shall have one vote.
- 2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

## PROCEDURE

### *Article 90*

- 1. The Trusteeship Council shall adopt its own rules and procedure, including the method of selecting its President.



2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

*Article 91*

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV

THE INTERNATIONAL COURT OF JUSTICE

*Article 92*

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

*Article 93*

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

*Article 94*

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

*Article 95*

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

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### *Article 96*

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

## CHAPTER XV

### THE SECRETARIAT

### *Article 97*

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

### *Article 98*

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

### *Article 99*

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

### *Article 100*

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials, responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

*Article 101*

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI

MISCELLANEOUS PROVISIONS

*Article 102*

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

*Article 103*

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

*Article 104*

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

*Article 105*

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as

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are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

## CHAPTER XVII

### TRANSITIONAL SECURITY ARRANGEMENTS

#### *Article 106*

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

#### *Article 107*

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

## CHAPTER XVIII

### AMENDMENTS

#### *Article 108*

Amendments to the present Charter shall come into force for all members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the members of the United Nations, including all the permanent members of the Security Council.

#### *Article 109*

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the

General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

## CHAPTER XIX

### RATIFICATION AND SIGNATURE

#### *Article 110*

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory States.

4. The states signatory to the present Charter which ratify it after it has come into force will become original members of the United Nations on the date of the deposit of their respective ratifications.

#### *Article 111*

The present Charter, of which the Chinese, French, Russian, English and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

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In faith whereof the representatives of the Governments of the United Nations have signed the present Charter.

Done at the City of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

Representatives of the following Governments signed the Charter

China	Honduras
Union of Soviet Socialist Republics	India
United Kingdom of Great Britain and Northern Ireland	Iran
France	Iraq
Argentina	Lebanon
Australia	Liberia
Belgium	Luxembourg
Bolivia	Mexico
Brazil	Netherlands
Byelo-Russian S.S.R.	New Zealand
Canada	Nicaragua
Colombia	Norway
Costa Rica	Panama
Cuba	Paraguay
Czechoslovakia	Peru
Denmark	Philippine Commonwealth
Dominican Republic	Saudi Arabia
Ecuador	Syria
Egypt	Turkey
El Salvador	Ukrainian S.S.R.
Ethiopia	Union of South Africa
Greece	Uruguay
Guatemala	Venezuela
Haiti	Yugoslavia
	United States of America

*[Poland signed the Charter on October 15, 1945.]*

## STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

### *Article 1*

The International Court of Justice established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I

ORGANIZATION OF THE COURT

*Article 2*

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices or are jurisconsults of recognized competence in international law.

*Article 3*

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.

2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

*Article 4*

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.

2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their Governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

*Article 5*

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

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2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

### *Article 6*

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

### *Article 7*

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

### *Article 8*

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

### *Article 9*

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

### *Article 10*

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

### *Article 11*

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.



*Article 12*

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

*Article 13*

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.

2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

*Article 14*

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: The Secretary-General shall, within one month of the occurrence of the vacancy,

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proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

### *Article 15*

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

### *Article 16*

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.

2. Any doubt on this point shall be settled by the decision of the Court.

### *Article 17*

1. No member of the Court may act as agent, counsel or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of inquiry, or in any other capacity.

3. Any doubt on this point shall be settled by the decision of the Court.

### *Article 18*

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

2. Formal notification thereof shall be made to the Secretary-General by the Registrar.

3. This notification makes the place vacant.

### *Article 19*

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

### *Article 20*

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

### *Article 21*

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.

2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

*Article 22*

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

*Article 23*

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and durations of which shall be fixed by the Court.

2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

*Article 24*

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

*Article 25*

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine judges shall suffice to constitute the Court.

*Article 26*

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for

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dealing with particular categories of cases; for example, labour cases and cases relating to transit and communications.

2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

### *Article 27*

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

### *Article 28*

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

### *Article 29*

With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

### *Article 30*

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.

2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

### *Article 31*

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.

2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.

4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give

place to the members of the Court of the nationality of the parties concerned, and, failing such or if they are unable to be present, to the judges specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.

6. Judges chosen as laid down in paragraphs 2, 3 and 4 of this Article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20 and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

#### *Article 32*

1. Each member of the Court shall receive an annual salary.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowance, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.

7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their travelling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

#### *Article 33*

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

## CHAPTER II

### COMPETENCE OF THE COURT

#### *Article 34*

1. Only states may be parties in cases before the Court.

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant

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to cases before it, and shall receive such information presented by such organizations on their own initiative.

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

### Article 35

1. The Court shall be open to the states parties to the present Statute.

2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute toward the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

### Article 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

- (a) The interpretation of a treaty;
- (b) Any question of international law;
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) The nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force

shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

#### Article 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

#### Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- (a) International conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- (b) International custom, as evidence of a general practice accepted as law;
- (c) The general principles of law recognized by civilized nations;
- (d) Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

### CHAPTER III

#### PROCEDURE

#### Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

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3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

### *Article 40*

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

### *Article 41*

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

### *Article 42*

1. The parties shall be represented by agents.

2. They may have the assistance of counsel or advocates before the Court.

3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

### *Article 43*

1. The procedure shall consist of two parts: written and oral.

2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.

3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

4. A certified copy of every document produced by one party shall be communicated to the other party.

5. The oral proceedings shall consist of the hearing by the court of witnesses, experts, agents, counsel, and advocates.

### *Article 44*

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the



government of the state upon whose territory the notice has to be served.

2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

*Article 45*

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

*Article 46*

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

*Article 47*

1. Minutes shall be made at each hearing, and signed by the Registrar and the President.

2. These minutes alone shall be authentic.

*Article 48*

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

*Article 49*

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

*Article 50*

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an inquiry or giving an expert opinion.

*Article 51*

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

*Article 52*

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

*Article 53*

1. Whenever one of the parties does not appear before the Court, or fails to defend his case, the other party may call upon the Court to decide in favour of its claim.

2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37 but also that the claim is well founded in fact and law.

*Article 54*

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.

2. The Court shall withdraw to consider the judgment.

3. The deliberations of the Court shall take place in private and remain secret.

*Article 55*

1. All questions shall be decided by a majority of the judges present.

2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

*Article 56*

1. The judgment shall state the reasons on which it is based.

2. It shall contain the names of the judges who have taken part in the decision.

*Article 57*

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

*Article 58*

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

*Article 59*

The decision of the Court has no binding force except between the parties and in respect of that particular case.

*Article 60*

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

*Article 61*

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

*Article 62*

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request.

*Article 63*

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

*Article 64*

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV

ADVISORY OPINIONS

*Article 65*

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request

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containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

### *Article 66*

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court or, should it not be sitting, by the President as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

### *Article 67*

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

### *Article 68*

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

## CHAPTER V

### AMENDMENT

### *Article 69*

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for

amendments to that Charter, subject, however, to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

*Article 70*

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

AGREEMENT ESTABLISHING THE PREPARATORY COMMISSION OF THE UNITED NATIONS

The Governments represented at the United Nations Conference on International Organization in the City of San Francisco, having determined that an international organization to be known as the United Nations shall be established, having this day signed the Charter of the United Nations, and having decided that, pending the coming into force of the Charter and the establishment of the United Nations as provided in the Charter, a Preparatory Commission of the United Nations should be established for the performance of certain functions and duties,

Agree as follows:

1. There is hereby established a Preparatory Commission of the United Nations for the purpose of making provisional arrangements for the first sessions of the General Assembly, the Security Council, and the Economic and Social Council, and the Trusteeship Council, for the establishment of the Secretariat, and for the convening of the International Court of Justice.

2. The Commission shall consist of one representative from each Government signatory to the Charter. The Commission shall establish its own rules of procedure. The functions and powers of the Commission, when the Commission is not in session, shall be exercised by an executive committee composed of the representatives of those Governments now represented on the Executive Committee of the Conference. The Executive Committee shall appoint such committees as may be necessary to facilitate its work, and shall make use of persons of special knowledge and experience.

3. The Commission shall be assisted by an Executive Secretary, who shall exercise such powers and perform such duties as the Commission may determine, and by such staff as may be required. This staff shall be composed so far as possible of officials appointed for this

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purpose by the participating Governments on the invitation of the Executive Secretary.

4. The Commission shall:

- (A) Convoke the General Assembly in its first session;
- (B) Prepare the provisional agenda for the first sessions of the principal organs of the Organization, and prepare documents and recommendations relating to all matters on these agenda;
- (C) Formulate recommendations concerning the possible transfer of certain functions, activities, and assets of the League of Nations which it may be considered desirable for the new Organization to take over on terms to be arranged;
- (D) Examine the problems involved in the establishment of the relationship between specialized inter-governmental organizations and agencies and the Organization;
- (E) Issue invitations for the nomination of candidates for the International Court of Justice in accordance with the provisions of the Statute of the Court;
- (F) Prepare recommendations concerning arrangements for the Secretariat of the Organization; and
- (G) Make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization.

5. The expenses incurred by the Commission and the expenses incidental to the convening of the first meeting of the General Assembly shall be met by the Government of the United Kingdom of Great Britain and Northern Ireland or, if the Commission so requests, shared by other governments. All such advances from governments shall be deductible from their first contributions to the Organization.

6. The seat of the Commission shall be located in London. The Commission shall hold its first meeting in San Francisco immediately after the conclusion of the United Nations Conference on International Organization. The Executive Committee shall call the Commission into session again as soon as possible after the Charter of the Organization comes into effect and whenever subsequently it considers such a session desirable.

7. The Commission shall cease to exist upon the election of the Secretary-General of the Organization, at which time its property and records shall be transferred to the Organization.

8. The Government of the United States of America shall be the temporary depository and shall have the custody of the original document embodying these interim arrangements in the five languages in which it is signed. Duly certified copies thereof shall be

transmitted to the governments of the signatory states. The Government of the United States of America shall transfer the original to the Executive Secretary on his appointment.

9. This document shall be effective as from this date, and shall remain open for signature by the states entitled to be the original Members of the United Nations until the Commission is dissolved in accordance with paragraph 7.

In faith whereof, the undersigned representatives having been duly authorized for that purpose, sign this document in the English, French, Chinese, Russian and Spanish languages, all texts being of equal authenticity.

Done in the City of San Francisco, this twenty-sixth day of June, Nineteen-Forty-Five.

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### TEXT OF THE REPORT

On July 17, 1945, the President of the United States of America, Harry S. Truman, the Chairman of the Council of People's Commissars of the Union of Soviet Socialist Republics, Generalissimo J. V. Stalin, and the Prime Minister of Great Britain, Winston S. Churchill, together with Mr Clement R. Attlee, met in the tripartite conference of Berlin. They were accompanied by the Foreign Secretaries of the three Governments, Mr James F. Byrnes, Mr V. M. Molotov, and Mr Anthony Eden, the Chiefs of Staff, and other advisers.

There were nine meetings between July 17 and July 25. The conference was then interrupted for two days while the results of the British General Election were being declared. On July 28 Mr Attlee returned to the conference as Prime Minister, accompanied by the new Secretary of State for Foreign Affairs, Mr Ernest Bevin. Four days of further discussion then took place. During the course of the conference there were regular meetings of the heads of the three Governments accompanied by the Foreign Secretaries, and also of the Foreign Secretaries alone. Committees appointed by the Foreign Secretaries for preliminary consideration of questions before the conference also met daily. The meetings of the conference were held at the Cecilienhof, near Potsdam. The conference ended on August 2, 1945.

Important decisions and agreements were reached. Views were exchanged on a number of other questions, and consideration of

<sup>1</sup> R.I.I.A. *Chronology of International Events and Documents*, Vol. I, No. 3.

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these matters will be continued by the Council of Foreign Ministers established by the conference.

President Truman, Generalissimo Stalin, and Prime Minister Attlee leave this conference, which has strengthened the ties between the three Governments and extended the scope of their collaboration and understanding, with renewed confidence that their Governments and peoples, together with the other United Nations, will ensure the creation of a just and enduring peace.

### A COUNCIL OF FOREIGN MINISTERS

The conference reached an agreement for the establishment of a Council of Foreign Ministers, representing the five principal Powers, to continue the necessary preparatory work for the peace settlements and to take up other matters which from time to time may be referred to the Council by agreement of the Governments participating in the Council. The text of the agreement for the establishment of the Council of Foreign Ministers is as follows:

1. There shall be established a Council composed of the Foreign Ministers of the United Kingdom, the Union of Soviet Socialist Republics, China, France, and the United States.

2. (i) The Council shall normally meet in London, which shall be the permanent seat of the joint secretariat which the Council will form. Each of the Foreign Ministers will be accompanied by a high-ranking deputy, duly authorized to carry on the work of the Council in the absence of his Foreign Minister, and by a small staff of technical advisers. (ii) The first meeting of the Council shall be held in London not later than September 1, 1945. Meetings may be held by common agreement in other capitals as may be agreed from time to time.

3. (i) As its immediate important task, the Council shall be authorized to draw up, with a view to their submission to the United Nations, treaties of peace with Italy, Rumania, Bulgaria, Hungary, and Finland, and to propose settlements of territorial questions outstanding on the termination of the war in Europe. The Council shall be utilized for the preparation of a peace settlement for Germany, to be accepted by the Government of Germany when a government adequate for the purpose is established. (ii) For the discharge of each of these tasks the Council will be composed of the members representing those States which were signatory to the terms of surrender imposed upon the enemy State concerned. For the purpose of the peace settlement for Italy, France shall be regarded as a signatory to the terms of surrender for Italy. Other members will be invited to participate when matters directly concerning them are under discussion. (iii) Other matters may from time



to time be referred to the Council by agreement between the member Governments.

4. (i) Whenever the Council is considering a question of direct interest to a State not represented thereon, such State should be invited to send representatives to participate in the discussion and study of that question. (ii) The Council may adapt its procedure to the particular problem under consideration. In some cases it may hold its own preliminary discussions prior to the participation of other interested States. In other cases the Council may convoke a formal conference of the States chiefly interested in seeking a solution of the particular problem.

In accordance with the decision of the conference, the three Governments have each addressed an identical invitation to the Governments of China and France to adopt this text and to join in establishing the Council. The establishment of the Council of Foreign Ministers for the specific purposes named in the text will be without prejudice to the agreement of the Crimea conference that there should be periodic consultation among the Foreign Secretaries of the United States, the Union of Soviet Socialist Republics, and the United Kingdom.

The conference also considered the position of the European Advisory Commission in the light of the agreement to establish the Council of Foreign Ministers. It was noted with satisfaction that the Commission had ably discharged its principal tasks by the recommendations that it had furnished for the terms of Germany's unconditional surrender, for the zones of occupation in Germany and Austria, and for the inter-allied control machinery in those countries. It was felt that further work of a detailed character for the co-ordination of allied policy for the control of Germany and Austria would in future fall within the competence of the Allied Control Council at Berlin and the Allied Commission at Vienna. Accordingly, it was agreed to recommend that the European Advisory Commission be dissolved.

#### THE ALLIES AND GERMANY

The allied armies are in occupation of the whole of Germany and the German people have begun to atone for the terrible crimes committed under the leadership of those whom, in the hour of their success, they openly approved and blindly obeyed. Agreement has been reached at this conference on the political and economic principles of a co-ordinated allied policy toward defeated Germany during the period of allied control. The purpose of this agreement is to carry out the Crimea declaration on Germany. German militarism and Nazism will be extirpated and the allies will take

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in agreement together, now and in the future, the other measures necessary to assure that Germany never again will threaten her neighbours or the peace of the world.

It is not the intention of the allies to destroy or enslave the German people. It is the intention of the allies that the German people be given the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis. If their own efforts are steadily directed to this end it will be possible for them in due course to take their place among the free and peaceful peoples of the world. The text of the agreement is as follows:

### THE POLITICAL AND ECONOMIC PRINCIPLES TO GOVERN THE TREATMENT OF GERMANY IN THE INITIAL CONTROL PERIOD

#### Political Principles

1. In accordance with the agreement on control machinery in Germany, supreme authority in Germany is exercised, on instructions from their respective Governments, by the commanders-in-chief of the armed forces of the United States of America, the United Kingdom, the Union of Soviet Socialist Republics, and the French Republic, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole, in their capacity as members of the Control Council.

2. So far as is practicable, there shall be uniformity of treatment of the German population throughout Germany.

3. The purposes of the occupation of Germany by which the Control Council shall be guided are:

- (i) The complete disarmament and demilitarization of Germany and the elimination or control of all German industry that could be used for military production. To these ends: (a) All German land, naval, and air forces, the S.S., S.A., S.D., and *Gestapo*, with all their organizations, staffs and institutions, including the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans' organizations, and all other military and quasi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and Nazism; (b) all arms, ammunition, and implements of war, and all specialized facilities for their production, shall be held at the disposal of the allies or destroyed. The maintenance and production of all aircraft and all arms, ammunition, and implements of war shall be prevented.

- (ii) To convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves, since their own ruthless warfare and the fanatical Nazi resistance have destroyed German economy and made chaos and suffering inevitable.
  - (iii) To destroy the National Socialist Party and its affiliated and supervised organizations; to dissolve all Nazi institutions; to ensure that they are not revived in any form; and to prevent all Nazi and militarist activity or propaganda.
  - (iv) To prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful co-operation in international life by Germany.
4. All Nazi laws which provided the basis of the Hitler regime or established discrimination on grounds of race, creed, or political opinion shall be abolished. No such discriminations, whether legal, administrative, or otherwise, shall be tolerated.
5. War criminals and those who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes shall be arrested and brought to judgment. Nazi leaders, influential Nazi supporters, and high officials of Nazi organizations and institutions, and any other persons dangerous to the occupation or its objectives shall be arrested and interned.
6. All members of the Nazi party who have been more than nominal participants in its activities, and all other persons hostile to allied purposes shall be removed from public and semi-public office and from positions of responsibility in important private undertakings. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.
7. German education shall be so controlled as completely to eliminate Nazi and militarist doctrines and to make possible the successful development of democratic ideas.
8. The judicial system will be reorganized in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens without distinction of race, nationality, or religion.
9. The administration of affairs in Germany should be directed towards the decentralization of the political structure and the development of local responsibility. To this end (i) local self-government shall be restored throughout Germany on democratic principles, and in particular through elective councils, as rapidly as is consistent with military security and the purposes of military occupation; (ii) all democratic political parties with rights of assembly and of public discussion shall be allowed and encouraged throughout

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Germany; (iii) representative and elective principles shall be introduced into regional, provincial and State (*Land*) administration as rapidly as may be justified by the successful application of these principles in local self-government; (iv) for the time being no central German government shall be established. Notwithstanding this, however, certain essential central German administrative departments, headed by State Secretaries, shall be established, particularly in the fields of finance, transport, communications, foreign trade, and industry. Such departments will act under the direction of the Control Council.

10. Subject to the necessity for maintaining military security, freedom of speech, press, and religion shall be permitted, and religious institutions shall be respected. Subject likewise to the maintenance of military security, the formation of free trade unions shall be permitted.

### Economic Principles

11. In order to eliminate Germany's war potential, the production of arms, ammunition, and implements of war as well as all types of aircraft and sea-going ships shall be prohibited and prevented. Production of metals, chemicals, machinery, and other items that are directly necessary to a war economy shall be rigidly controlled and restricted to Germany's approved post-war peace-time needs to meet the objectives stated in paragraph 15. Productive capacity not needed for permitted production shall be removed in accordance with the reparations plan recommended by the Allied Commission on Reparations and approved by the Governments concerned, or if not removed shall be destroyed.

12. At the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts, and other monopolistic arrangements.

13. In organizing the German economy, primary emphasis shall be given to the development of agriculture and peaceful domestic industries.

14. During the period of occupation Germany shall be treated as a single economic unit. To this end common policies shall be established in regard to: (a) mining and industrial production and allocation; (b) agriculture, forestry, and fishing; (c) wages, prices, and rationing; (d) import and export programmes for Germany as a whole; (e) currency and banking, central taxation, and Customs; (f) reparation and removal of industrial war potential; (g) transportation and communications. In applying these policies account shall be taken, where appropriate, of varying local conditions.

15. Allied controls shall be imposed upon the German economy,

but only to the extent necessary (a) to carry out programmes of industrial disarmament and demilitarization, of reparations, and of approved exports and imports; (b) to assure the production and maintenance of goods and services required to meet the needs of the occupying forces and displaced persons in Germany, and essential to maintain in Germany average living standards not exceeding the average of the standards of living of European countries (European countries means all European countries excluding the United Kingdom and the Union of Soviet Socialist Republics); (c) to ensure in the manner determined by the Control Council the equitable distribution of essential commodities between the several zones, so as to produce a balanced economy throughout Germany and reduce the need for imports; (d) to control German industry and all economic and financial international transactions, including exports and imports, with the aim of preventing Germany from developing a war potential and of achieving the other objectives named herein; (e) to control all German public or private scientific bodies, research and experimental institutions, laboratories, etc., connected with economic activities.

16. In the imposition and maintenance of economic controls established by the Control Council, German administrative machinery shall be created and the German authorities shall be required to the fullest extent practicable to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls, and any breakdown in these controls, will rest with themselves. Any German controls which may run counter to the objectives of occupation will be prohibited.

17. Measures shall be promptly taken (a) to effect essential repair of transport; (b) to enlarge coal production; (c) to maximize agricultural output; (d) to effect emergency repair of housing and essential utilities.

18. Appropriate steps shall be taken by the Control Council to exercise control and the power of disposition over German-owned external assets not already under the control of the United Nations which have taken part in the war against Germany.

19. Payment of reparations should leave enough resources to enable the German people to subsist without external assistance. In working out the economic balance of Germany the necessary means must be provided to pay for imports approved by the Control Council in Germany. The proceeds of exports from current production and stocks shall be available in the first place for payment for such imports. The above clause will not apply to the equipment and products referred to in paragraph 4 (a) and 4 (b) of the reparations agreement.

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### GERMAN REPARATIONS

In accordance with the Crimea decision that Germany be compelled to compensate to the greatest possible extent for the loss and suffering that she has caused to the United Nations and for which the German people cannot escape responsibility, the following agreement on reparations was reached:

1. Reparation claims of the U.S.S.R. shall be met by removals from the zone of Germany occupied by the U.S.S.R. and from appropriate German external assets.

2. The U.S.S.R. undertakes to settle the reparation claims of Poland from its own share of reparations.

3. The reparation claims of the United States, the United Kingdom, and other countries entitled to reparations shall be met from the Western zones and from appropriate German external assets.

4. In addition to the reparations to be taken by the U.S.S.R. from its own zone of occupation, the U.S.S.R. shall receive additionally from the Western Zones: (a) 15 per cent of such usable and complete industrial capital equipment, in the first place from the metallurgical, chemical, and machine manufacturing industries, as is unnecessary for the German peace economy, and should be removed from the Western zones of Germany, in exchange for an equivalent value of food, coal, potash, zinc, timber, clay products, petroleum products, and such other commodities as may be agreed upon. (b) 10 per cent of such industrial capital equipment as is unnecessary for the German peace economy and should be removed from the western zones, to be transferred to the Soviet Government on reparations account without payment or exchange of any kind in return. Removals of equipment as provided in (a) and (b) above shall be made simultaneously.

5. The amount of equipment to be removed from the Western zones on account of reparations must be determined within six months from now at the latest.

6. Removals of industrial capital equipment shall begin as soon as possible and shall be completed within two years from the determination specified in paragraph 5. The delivery of products covered by 4 (a) above shall begin as soon as possible, and shall be made by the U.S.S.R. in agreed instalments within five years of the date thereof. The determination of the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparation shall be made by the Control Council under policies fixed by the Allied Commission on Reparations, with the participation of France, subject to the final approval of the zone commander in the zone from which the equipment is to be removed.

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7. Prior to the fixing of the total amount of equipment subject to removal, advance deliveries shall be made in respect of such equipment as will be determined to be eligible for delivery in accordance with the procedure set forth in the last sentence of paragraph 6.

8. The Soviet Government renounces all claims in respect of reparations to shares of German enterprises which are located in the Western zones of occupation in Germany, as well as to German foreign assets in all countries except those specified in paragraph 9 below.

9. The Governments of the U.K. and U.S.A. renounce their claims in respect of reparations to shares of German enterprises which are located in the Eastern zone of occupation in Germany, as well as to German foreign assets in Bulgaria, Finland, Hungary, Rumania, and eastern Austria.

10. The Soviet Government makes no claims to gold captured by the allied troops in Germany.

## DISPOSAL OF THE FLEET

The conference agreed in principle upon arrangements for the use and disposal of the surrendered German fleet and merchant ships. It was decided that the three Governments would appoint experts to work out together detailed plans to give effect to the agreed principles. A further joint statement will be published simultaneously by the three Governments in due course.

## CITY OF KONIGSBERG AND THE ADJACENT AREA

The conference examined a proposal by the Soviet Government that, pending the final determination of territorial questions at the peace settlement, the section of the western frontier of the Union of Soviet Socialist Republics which is adjacent to the Baltic Sea should pass from a point on the eastern shore of the Bay of Danzig to the east, north of Braunsberg-Goldap, to the meeting point of the frontiers of Lithuania, the Polish Republic, and East Prussia.

The conference has agreed in principle to the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the city of Konigsberg and the area adjacent to it as described above, subject to expert examination of the actual frontier.

The President of the United States and the British Prime Minister have declared that they will support the proposal of the conference at the forthcoming peace settlement.

## WAR CRIMINALS

The three Governments have taken note of the discussions which have been proceeding in recent weeks in London between British,

## **BERLIN CONFERENCE**

United States, Soviet, and French representatives with a view to reaching agreement on the methods of trial of those major war criminals whose crimes under the Moscow declaration of October, 1943, have no particular geographical localization. The three Governments reaffirm their intention to bring these criminals to swift and sure justice. They hope that the negotiations in London will result in speedy agreement being reached for this purpose, and they regard it as a matter of great importance that the trial of these major criminals should begin at the earliest possible date. The first list of defendants will be published before September 1.

### **AUSTRIA**

The conference examined a proposal by the Soviet Government on the extension of the authority of the Austrian Provisional Government to all of Austria. The three Governments agreed that they were prepared to examine this question after the entry of the British and American forces into the city of Vienna.

### **POLAND**

The conference considered questions relating to the Polish Provisional Government and the western boundary of Poland.

A. On the Polish Provisional Government of National Unity, they defined their attitude in the following statement:

We have taken note with pleasure of the agreement reached among representative Poles from Poland and abroad which has made possible the formation, in accordance with the decisions reached at the Crimea conference, of a Polish Provisional Government of National Unity recognized by the three Powers. The establishment by the British and United States Governments of diplomatic relations with the Polish Provisional Government has resulted in the withdrawal of their recognition from the former Polish Government in London, which no longer exists.

The British and United States Governments have taken measures to protect the interest of the Polish Provisional Government as the recognized Government of the Polish State in the property belonging to the Polish State located in their territories and under their control, whatever the form of this property may be. They have further taken measures to prevent alienation to third parties of such property. All proper facilities will be given to the Polish Provisional Government for the exercise of the ordinary legal remedies for the recovery of any property belonging to the Polish State which may have been wrongfully alienated.

The three Powers are anxious to assist the Polish Provisional



Government in facilitating the return to Poland as soon as practicable of all Poles abroad who wish to go, including members of the Polish armed forces and the merchant marine. They expect that those Poles who return home shall be accorded personal and property rights on the same basis as all Polish citizens.

The three Powers note that the Polish Provisional Government, in accordance with the decisions of the Crimea conference, has agreed to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot, in which all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates, and that representatives of the allied press shall enjoy full freedom to report to the world upon developments in Poland before and during the elections.

B. The following agreement was reached on the western frontier of Poland:

In conformity with the agreement on Poland reached at the Crimea conference, the three heads of Government have sought the opinion of the Polish Provisional Government of National Unity in regard to the accession of territory in the north and west which Poland should receive. The President of the National Council of Poland and members of the Polish Provisional Government of National Unity have been received at the conference and have fully presented their views. The three heads of Government reaffirm their opinion that the final delimitation of the western frontier of Poland should await the peace settlement.

The three heads of Government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinemunde, and thence along the Oder River to the confluence of the western Neisse River and along the western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this conference and including the area of the former free city of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.

**CONCLUSION OF PEACE TREATIES AND ADMISSION TO UNITED  
NATIONS ORGANIZATION**

The conference agreed upon the following statement of common policy for establishing as soon as possible the conditions of lasting peace after victory in Europe:

## BERLIN CONFERENCE

The three Governments consider it desirable that the present anomalous position of Italy, Bulgaria, Finland, Hungary, and Rumania should be terminated by the conclusion of peace treaties. They trust that the other interested allied Governments will share these views. For their part, the three Governments have included the preparation of a peace treaty for Italy as the first among the immediate important tasks to be undertaken by the new Council of Foreign Ministers. Italy was the first of the Axis Powers to break with Germany, to whose defeat she has made a material contribution, and has now joined with the allies in the struggle against Japan. Italy has freed herself from the Fascist regime and is making good progress towards the re-establishment of a democratic government and institutions. The conclusion of such a peace treaty with a recognized and democratic Italian Government will make it possible for the three Governments to fulfil their desire to support an application from Italy for membership of the United Nations.

The three Governments have also charged the Council of Foreign Ministers with the task of preparing peace treaties for Bulgaria, Finland, Hungary, and Rumania. The conclusion of peace treaties with recognized democratic Governments in these States will also enable the three Governments to support applications from them for membership of the United Nations. The three Governments agree to examine each separately in the near future, in the light of the conditions then prevailing, the establishment of diplomatic relations with Finland, Rumania, Bulgaria, and Hungary to the extent possible prior to the conclusion of peace treaties with those countries.

The three Governments have no doubt that in view of the changed conditions resulting from the termination of the war in Europe, representatives of the allied press will enjoy full freedom to report to the world upon developments in Rumania, Bulgaria, Hungary, and Finland.

As regards the admission of other States into the United Nations Organization, Article 4 of the Charter of the United Nations declares that: "1. Membership in the United Nations is open to all other peace-loving States who accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out those obligations. 2. The admission of any such State to membership in the United Nations will be effective by a decision of the General Assembly upon the recommendation of the Security Council." The three Governments, so far as they are concerned, will support applications for membership from those States which have remained neutral during the war and which fulfil the qualifications set out above.

The three Governments feel bound, however, to make it clear

that they for their part would not favour any application for membership put forward by the present Spanish Government, which, having been founded with the support of the Axis Powers, does not, in view of its origins, its nature, its record, and its close association with the aggressor States, possess the qualifications necessary to justify such membership.

#### **TERRITORIAL TRUSTEESHIP**

The conference examined a proposal by the Soviet Government concerning trusteeship territories as defined in the decision of the Crimea conference and in the Charter of the United Nations Organization. After an exchange of views on this question it was decided that the disposition of any former Italian territories was one to be decided in connection with the preparation of a peace treaty with Italy, and that the question of Italian territory would be considered by the September Council of Ministers of Foreign Affairs.

#### **REVISED ALLIED CONTROL COMMISSION PROCEDURE IN RUMANIA, BULGARIA, AND HUNGARY**

The three Governments took note that the Soviet Representatives on the Allied Control Commissions in Rumania, Bulgaria, and Hungary have communicated to their United Kingdom and United States colleagues proposals for improving the work of the Control Commissions, now that hostilities in Europe have ceased. The three Governments agreed that the revision of the procedures of the Allied Control Commissions in these countries should now be undertaken, taking into account the interests and responsibilities of the three Governments which together presented the terms of armistice to the respective countries, and accepting as a basis the agreed proposals.

#### **ORDERLY TRANSFERS OF GERMAN POPULATIONS**

The conference reached the following agreement on the removal of Germans from Poland, Czechoslovakia, and Hungary:

The three Governments, having considered the question in all its aspects, recognize that the transfer to Germany of German populations, or elements thereof, remaining in Poland, Czechoslovakia, and Hungary will have to be undertaken. They agree that any transfers that take place should be effected in an orderly and humane manner.

Since the influx of a large number of Germans into Germany would increase the burden already resting on the occupying authorities, they consider that the Allied Control Council in Germany should in the first instance examine the problem with special regard to the question of the equitable distribution of these Germans among the several zones of occupation. They are accordingly instructing their respective representatives on the Control Council to report to

## BERLIN CONFERENCE

their Governments as soon as possible the extent to which such persons have already entered Germany from Poland, Czechoslovakia, and Hungary, and to submit an estimate of the time and rate at which further transfers could be carried out, having regard to the present situation in Germany.

The Czechoslovak Government, the Polish Provisional Government, and the Control Council in Hungary are at the same time being informed of the above, and are being requested meanwhile to suspend further expulsions pending the examination by the Governments concerned of the report from their representatives on the Control Council.

## MILITARY TALKS

During the conference there were meetings between the Chiefs of Staff of the three Governments on military matters of common interest.

Approved: (Signed) J. V. STALIN, HARRY S. TRUMAN, C. R. ATTLEE.

## PROCLAMATION TO THE JAPANESE PEOPLE

On July 26 a proclamation to the Japanese people was issued from Potsdam by President Truman, Marshal Stalin, Mr Churchill, and General Chiang Kai-shek. It began by warning them that prodigious forces were now poised to strike the final blows on Japan, which would result in the complete destruction of the Japanese armed forces and the utter devastation of the homeland. It then went on:

"4. The time has come for Japan to decide whether she will continue to be controlled by those self-willed militaristic advisers whose unintelligent calculations have brought the Empire of Japan to the threshold of annihilation, or whether she will follow the path of reason.

"5. The following are our terms: We will not deviate from them. There are no alternatives. We shall brook no delay:

"6. There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace, security, and justice will be impossible until irresponsible militarism is driven from the world.

"7. Until such a new order is established and until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory designated by the allies shall be occupied to secure the achievements of the basic objectives we are here setting forth.

"8. The terms of the Cairo declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku, and such minor islands as we determine.

"9. The Japanese military forces after being completely disarmed shall be permitted to return to their homes with the opportunity of leading peaceful and productive lives.

"10. We do not intend that the Japanese shall be enslaved as a race nor destroyed as a nation, but stern justice will be meted out to all war criminals, including those who have visited cruelties upon our prisoners. The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. Freedom of speech, of religion, and of thought as well as respect for fundamental human rights shall be established.

"11. Japan shall be permitted to maintain such industries as will sustain her economy and allow the exaction of just reparations in kind, but not those industries which will enable her to re-arm for war. To this end access to, as distinguished from control of, raw materials shall be permitted. Eventual Japanese participation in world trade relations shall be permitted.

"12. The occupying forces of the allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established, in accordance with the freely expressed will of the Japanese people, a peacefully inclined and responsible government.

"13. We call upon the Government of Japan to proclaim now the unconditional surrender of all the Japanese armed forces and to provide proper and adequate assurances of their good faith in such action. The alternative for Japan is complete and utter destruction."

## FOOD AND AGRICULTURE ORGANIZATION

Conference in Quebec, November, 1945

### I. CONSTITUTION OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS<sup>1</sup>

*[As a result of the United Nations Conference on Food and Agriculture held at Hot Springs, Virginia, U.S.A. in May 1943, an Interim Commission was established which formulated the constitution reproduced below.]*

#### Preamble

The Nations accepting this Constitution, being determined to promote the common welfare by furthering separate and collective action on their part for the purposes of—

<sup>1</sup> Cmd. 6590. *Documents Relating to the Food and Agriculture Organization of the United Nations, August 1—December 14, 1944.*

## FOOD AND AGRICULTURE ORGANIZATION

raising levels of nutrition and standards of living of the peoples under their respective jurisdictions,  
securing improvements in the efficiency of the production and distribution of all food and agricultural products,  
bettering the condition of rural populations,  
and thus contributing towards an expanding world economy,

hereby establish the Food and Agriculture Organization of the United Nations, hereinafter referred to as the "Organization", through which the Members will report to one another on the measures taken and the progress achieved in the fields of action set forth above.

### *Article I*

#### FUNCTIONS OF THE ORGANIZATION

1. The Organization shall collect, analyse, interpret, and disseminate information relating to nutrition, food and agriculture.

2. The Organization shall promote and, where appropriate, shall recommend national and international action with respect to—

- (a) scientific, technological, social, and economic research relating to nutrition, food and agriculture;
- (b) the improvement of education and administration relating to nutrition, food and agriculture, and the spread of public knowledge of nutritional and agricultural science and practice;
- (c) the conservation of natural resources and the adoption of improved methods of agricultural production;
- (d) the improvement of the processing, marketing, and distribution of food and agricultural products;
- (e) the adoption of policies for the provision of adequate agricultural credit, national and international;
- (f) the adoption of international policies with respect to agricultural commodity arrangements.

3. It shall also be the function of the Organization—

- (a) to furnish such technical assistance as governments may request;
- (b) to organize, in co-operation with the governments concerned, such missions as may be needed to assist them to fulfil the obligations arising from their acceptance of the recommendations of the United Nations Conference on Food and Agriculture; and
- (c) generally to take all necessary and appropriate action to implement the purposes of the Organization as set forth in the Preamble.

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### *Article II*

#### MEMBERSHIP

1. The original Members of the Organization shall be such of the nations specified in Annex I as accept this Constitution in accordance with the provisions of Article XXI.

2. Additional Members may be admitted to the Organization by a vote concurred in by a two-thirds majority of all the members of the Conference and upon acceptance of this Constitution as in force at the time of admission.

### *Article III*

#### THE CONFERENCE

1. There shall be a Conference of the Organization in which each Member nation shall be represented by one member.

2. Each Member nation may appoint an alternate, associates, and advisers to its member of the Conference. The Conference may make rules concerning the participation of alternates, associates, and advisers in its proceedings, but any such participation shall be without the right to vote except in the case of an alternate or associate participating in the place of a member.

3. No member of the Conference may represent more than one Member nation.

4. Each Member nation shall have only one vote.

5. The Conference may invite any public international organization which has responsibilities related to those of the Organization to appoint a representative who shall participate in its meetings on the conditions prescribed by the Conference. No such representative shall have the right to vote.

6. The Conference shall meet at least once in every year.

7. The Conference shall elect its own officers, regulate its own procedure, and make rules governing the convocation of sessions and the determination of agenda.

8. Except as otherwise expressly provided in this Constitution or by rules made by the Conference, all matters shall be decided by the Conference by a simple majority of the votes cast.

### *Article IV*

#### FUNCTIONS OF THE CONFERENCE

1. The Conference shall determine the policy and approve the budget of the Organization and shall exercise the other powers conferred upon it by this Constitution.

2. The Conference may by a two-thirds majority of the votes cast make recommendations concerning questions relating to food and

## FOOD AND AGRICULTURE ORGANIZATION

agriculture to be submitted to Member nations for consideration with a view to implementation by national action.

3. The Conference may by a two-thirds majority of the votes cast submit conventions concerning questions relating to food and agriculture to Member nations for consideration with a view to their acceptance by the appropriate constitutional procedure.

4. The Conference shall make rules laying down the procedure to be followed to secure—

- (a) proper consultation with governments and adequate technical preparation prior to consideration by the Conference of proposed recommendations and conventions; and
- (b) proper consultation with governments in regard to relations between the Organization and national institutions or private persons.

5. The Conference may make recommendations to any public international organization regarding any matter pertaining to the purpose of the Organization.

6. The Conference may by a two-thirds majority of the votes cast agree to discharge any other functions consistent with the purposes of the Organization which may be assigned to it by governments or provided for by any arrangement between the Organization and any other public international organization.

### *Article V*

#### THE EXECUTIVE COMMITTEE

1. The Conference shall appoint an Executive Committee consisting of not less than nine or more than fifteen members or alternate or associate members of the Conference or their advisers who are qualified by administrative experience or other special qualifications to contribute to the attainment of the purpose of the Organization. There shall be not more than one member from any Member nation. The tenure and other conditions of office of the members of the Executive Committee shall be subject to rules to be made by the Conference.

2. Subject to the provisions of paragraph 1 of this Article, the Conference shall have regard in appointing the Executive Committee to the desirability that its membership should reflect as varied as possible an experience of different types of economy in relation to food and agriculture.

3. The Conference may delegate to the Executive Committee such powers as it may determine, with the exception of the powers set forth in paragraph 2 of Article II, Article IV, paragraph 1 of Article VII, Article XIII, and Article XX of this Constitution.



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4. The members of the Executive Committee shall exercise the powers delegated to them by the Conference on behalf of the whole Conference and not as representatives of their respective governments.

5. The Executive Committee shall appoint its own officers and, subject to any decisions of the Conference, shall regulate its own procedure.

### *Article VI*

#### OTHER COMMITTEES AND CONFERENCES

1. The Conference may establish technical and regional standing committees and may appoint committees to study and report on any matter pertaining to the purpose of the Organization.

2. The Conference may convene general, technical, regional, or other special conferences and may provide for the representation at such conferences, in such manner as it may determine, of national and international bodies concerned with nutrition, food and agriculture.

### *Article VII*

#### THE DIRECTOR-GENERAL

1. There shall be a Director-General of the Organization who shall be appointed by the Conference by such procedure and on such terms as it may determine.

2. Subject to the general supervision of the Conference and its Executive Committee, the Director-General shall have full power and authority to direct the work of the Organization.

3. The Director-General or a representative designated by him shall participate, without the right to vote, in all meetings of the Conference and of its Executive Committee and shall formulate for consideration by the Conference and the Executive Committee proposals for appropriate action in regard to matters coming before them.

### *Article VIII*

#### STAFF

1. The staff of the Organization shall be appointed by the Director-General in accordance with such procedure as may be determined by rules made by the Conference.

2. The staff of the Organization shall be responsible to the Director-General. Their responsibilities shall be exclusively international in character and they shall not seek or receive instructions in regard to the discharge thereof from any authority external to the Organization. The Member nations undertake fully to respect the international character of the responsibilities of the staff and not to seek to

## FOOD AND AGRICULTURE ORGANIZATION

influence any of their nationals in the discharge of such responsibilities.

3. In appointing the staff the Director-General shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of selecting personnel recruited on as wide a geographical basis as is possible.

4. Each Member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Director-General and senior staff diplomatic privileges and immunities and to accord to other members of the staff all facilities and immunities accorded to non-diplomatic personnel attached to diplomatic missions, or alternatively to accord to such other members of the staff the immunities and facilities which may hereafter be accorded to equivalent members of the staffs of other public international organizations.

### *Article IX*

#### SEAT

The seat of the Organization shall be determined by the Conference.

### *Article X*

#### REGIONAL AND LIAISON OFFICES

1. There shall be such regional offices as the Director-General with the approval of the Conference may decide.

2. The Director-General may appoint officials for liaison with particular countries or areas subject to the agreement of the government concerned.

### *Article XI*

#### REPORTS BY MEMBERS

1. Each Member nation shall communicate periodically to the Organization reports on the progress made toward achieving the purpose of the Organization set forth in the Preamble and on the action taken on the basis of recommendations made and conventions submitted by the Conference.

2. These reports shall be made at such times and in such form and shall contain such particulars as the Conference may request.

3. The Director-General shall submit these reports, together with analyses thereof, to the Conference and shall publish such reports and analyses as may be approved for publication by the Conference together with any reports relating thereto adopted by the Conference.

4. The Director-General may request any Member nation to submit information relating to the purpose of the Organization.

## FOOD AND AGRICULTURE ORGANIZATION

5. Each Member nation shall, on request, communicate to the Organization, on publication, all laws and regulations and official reports and statistics concerning nutrition, food and agriculture.

### *Article XII*

#### CO-OPERATION WITH OTHER ORGANIZATIONS

1. In order to provide for close co-operation between the Organization and other public international organizations with related responsibilities, the Conference may, subject to the provision of Article XIII, enter into agreements with the competent authorities of such organizations defining the distribution of responsibilities and methods of co-operation.

2. The Director-General may, subject to any decisions of the Conference, enter into agreements with other public international organizations for the maintenance of common services, for common arrangements in regard to recruitment, training, conditions of service, and other related matters, and for interchanges of staff.

### *Article XIII*

#### RELATION TO ANY GENERAL WORLD ORGANIZATION

1. The Organization shall, in accordance with the procedure provided for in the following paragraph, constitute a part of any general international organization to which may be entrusted the co-ordination of the activities of international organizations with specialized responsibilities.

2. Arrangements for defining the relations between the Organization and any such general organization shall be subject to the approval of the Conference. Notwithstanding the provisions of Article XX, such arrangements may, if approved by the Conference by a two-thirds majority of the votes cast, involve modification of the provisions of this Constitution: Provided that no such arrangements shall modify the purposes and limitations of the Organization as set forth in this Constitution.

### *Article XIV*

#### SUPERVISION OF OTHER ORGANIZATIONS

The Conference may approve arrangements placing other public international organizations dealing with questions relating to food and agriculture under the general authority of the Organization on such terms as may be agreed with the competent authorities of the organization concerned.

## FOOD AND AGRICULTURE ORGANIZATION

### *Article XV*

#### LEGAL STATUS

1. The Organization shall have the capacity of a legal person to perform any legal act appropriate to its purpose which is not beyond the powers granted to it by this Constitution.

2. Each Member nation undertakes, in so far as it may be possible under its constitutional procedure, to accord to the Organization all the immunities and facilities which it accords to diplomatic missions, including inviolability of premises and archives, immunity from suit, and exemptions from taxation.

3. The Conference shall make provision for the determination by an administrative tribunal of disputes relating to the conditions and terms of appointment of members of the staff.

### *Article XVI*

#### FISH AND FOREST PRODUCTS

In this Constitution the term "agriculture" and its derivatives include fisheries, marine products, forestry, and primary forestry products.

### *Article XVII*

#### INTERPRETATION OF CONSTITUTION

Any question or dispute concerning the interpretation of this Constitution or any international convention adopted thereunder shall be referred for determination to an appropriate international court or arbitral tribunal in the manner prescribed by rules to be adopted by the Conference.

### *Article XVIII*

#### EXPENSES

1. Subject to the provisions of Article XXV, the Director-General shall submit to the Conference an annual budget covering the anticipated expenses of the Organization. Upon approval of a budget the total amount approved shall be allocated among the Member nations in proportions determined, from time to time, by the Conference. Each Member nation undertakes, subject to the requirements of its constitutional procedure, to contribute to the Organization promptly its share of the expenses so determined.

2. Each Member nation shall, upon its acceptance of this Constitution, pay as its first contribution its proportion of the annual budget for the current financial year.

## FOOD AND AGRICULTURE ORGANIZATION

3. The financial year of the Organization shall be July 1 to June 30 unless the Conference should otherwise determine.

### *Article XIX*

#### WITHDRAWAL

Any Member nation may give notice of withdrawal from the Organization at any time after the expiration of four years from the date of its acceptance of this Constitution. Such notice shall take effect one year after the date of its communication to the Director-General of the Organization subject to the Member nation's having at that time paid its annual contribution for each year of its membership, including the financial year following the date of such notice.

### *Article XX*

#### AMENDMENT OF CONSTITUTION

1. Amendments to this Constitution involving new obligations for Member nations shall require the approval of the Conference by a vote concurred in by a two-thirds majority of all the members of the Conference and shall take effect on acceptance by two-thirds of the Member nations for each Member nation accepting the amendment and thereafter for each remaining Member nation on acceptance by it.

2. Other amendments shall take effect on adoption by the Conference by a vote concurred in by a two-thirds majority of all the members of the Conference.

### *Article XXI*

#### ENTRY INTO FORCE OF CONSTITUTION

1. This Constitution shall be open to acceptance by the nations specified in Annex I.

2. The instruments of acceptance shall be transmitted by each government to the United Nations Interim Commission on Food and Agriculture, which shall notify their receipt to the governments of the nations specified in Annex I. Acceptance may be notified to the Interim Commission through a diplomatic representative, in which case the instrument of acceptance must be transmitted to the Commission as soon as possible thereafter.

3. Upon the receipt by the Interim Commission of twenty notifications of acceptance the Interim Commission shall arrange for this Constitution to be signed in a single copy by the diplomatic representatives, duly authorized thereto, of the nations who shall have notified their acceptance, and upon being so signed on behalf of not

## FOOD AND AGRICULTURE ORGANIZATION

less than twenty of the nations specified in Annex I this Constitution shall come into force immediately.

4. Acceptances the notification of which is received after the entry into force of this Constitution shall become effective upon receipt by the Interim Commission or the Organization.

### *Article XXII*

#### FIRST SESSION OF THE CONFERENCE

The United Nations Interim Commission on Food and Agriculture shall convene the first session of the Conference to meet at a suitable date after the entry into force of this Constitution.

### *Article XXIII*

#### LANGUAGES

Pending the adoption by the Conference of any rules regarding languages, the business of the Conference shall be transacted in English.

### *Article XXIV*

#### TEMPORARY SEAT

The temporary seat of the Organization shall be at Washington unless the Conference should otherwise determine.

### *Article XXV*

#### FIRST FINANCIAL YEAR

The following exceptional arrangements shall apply in respect of the financial year in which this Constitution comes into force:

- (a) the budget shall be the provisional budget set forth in Annex II to this Constitution; and
- (b) the amounts to be contributed by the Member nations shall be in the proportions set forth in Annex II to this Constitution: Provided that each Member nation may deduct therefrom the amount already contributed by it toward the expenses of the Interim Commission.

### *Article XXVI*

#### DISSOLUTION OF THE INTERIM COMMISSION

On the opening of the first session of the Conference, the United Nations Interim Commission on Food and Agriculture shall be deemed to be dissolved and its records and other property shall become the property of the Organization.

# FOOD AND AGRICULTURE ORGANIZATION

## ANNEX I

### NATIONS ELIGIBLE FOR ORIGINAL MEMBERSHIP

Australia	Ethiopia	Nicaragua
Belgium	France	Norway
Bolivia	Greece	Panama
Brazil	Guatemala	Paraguay
Canada	Haiti	Peru
Chile	Honduras	Phillippine Commonwealth
China	Iceland	Poland
Colombia	India	Union of South Africa
Costa Rica	Iran	Union of Soviet Socialist Republics
Cuba	Iraq	United Kingdom
Czechoslovakia	Liberia	United States of America
Denmark	Luxembourg	Uruguay
Dominican Republic	Mexico	Venezuela
Ecuador	Netherlands	Yugoslavia
Egypt	New Zealand	
El Salvador		

## II. RESOLUTIONS<sup>1</sup>

The Conference resolves:

1. That, in pursuance of Article XIII of the Constitution of the Food and Agriculture Organization (which provides that the Organization shall constitute a part of any general international organization to which may be entrusted the co-ordination of the activities of international organizations with specialized responsibilities) and in accordance with Article 57 of the Charter of the United Nations (which provides that the specialized agencies shall be brought into relation with the United Nations), the Organization shall without prejudice to its purposes and limitations as set out in the Constitution, so order its procedure and practice as to achieve the closest relationship with the United Nations and the other specialized agencies established in connection therewith.

2. That, in order to give effect to the provision of paragraph 1, the Director-General shall, with the approval of the Executive Committee, negotiate agreements between the Organization and the United Nations and other specialized agencies established in connection therewith.

3. That, as provided by Article XII of the Constitution, the Organization shall take the fullest advantage of any common services made available to the specialized agencies by the United Nations.

4. That the Director-General, with the approval of the Executive Committee,

<sup>1</sup> United Nations Preparatory Commission, PC/ES/4.

## FOOD AND AGRICULTURE ORGANIZATION

- (a) shall examine the question of the relationship between the Organization and other inter-governmental organizations having related responsibilities;
- (b) shall, in view of the fact that the closest possible co-operation is needed with non-governmental international organizations which may be of assistance to the Organization in achieving its fundamental objectives, and particularly the improvement of the standard of living of all workers, consider the methods by which such co-operation may best be established; and
- (c) shall report thereon to the next session of the Conference.

### III. RECOMMENDATION CONCERNING COMMON ADMINISTRATIVE SERVICES FOR SPECIALIZED AGENCIES

The Conference recommends:

1. That in order to achieve the most efficient utilization of the services of staff available to or employed by the Food and Agriculture Organization and other specialized agencies of the United Nations, the Organization comply, subject to the reservation in Article XIII, paragraph 2, of the Constitution, with the recommendations by the United Nations Organization made under Article 58 of the Charter or otherwise,

- (a) which provide for common conditions and terms of service, for the interchange of staff with other specialized agencies, and for the establishment of an Administrative Tribunal for the decision of disputes between the specialized agencies and their staffs; or
- (b) which in any other way secure that the staff of the specialized agencies shall be available to serve the interests of the United Nations in whatever way they are best able as members of an international administrative service.

2. That toward this end any persons employed by the Organization be employed on terms compatible with any such recommendations, or, in the case of persons engaged before the coming into force of arrangements made under Article 63 of the Charter and Article XIII of the Constitution for defining the relations between the Food and Agriculture Organization and the United Nations Organization, the contract of employment include a provision that its terms shall be varied as may be necessary to accord with the provisions of the said arrangements.



## FOOD AND AGRICULTURE ORGANIZATION

### IV. RECOMMENDATION CONCERNING FINANCIAL RELATIONS WITH THE UNITED NATIONS

The Conference recommends:

1. That the Director-General should, subject to the approval of the Conference, under Article XIII, paragraph 2, of the Constitution, include in any agreement made under Article 63 of the Charter of the United Nations provisions which empower the United Nations to carry out on behalf of FAO those financial services which are the more effective if carried out in common by the United Nations on behalf of the specialized agencies. In particular, the Director-General should agree to the inclusion of provisions for the collection of contributions and the performance of external audit services by the United Nations.

2. That the Director-General should, subject to the approval of the Conference under Article XIII, paragraph 2, of the Constitution, include in any agreement made under Article 63 of the Charter of the United Nations provisions (*a*) for the exercise of advisory functions with regard to the budget of the Food and Agriculture Organization by the General Assembly of the United Nations, and (*b*) for the inclusion of the budget of FAO within the budget of the United Nations.

### V. RECOMMENDATION CONCERNING THE INTERNATIONAL INSTITUTE OF AGRICULTURE

The Conference,

recognizing the undesirability of duplication of work of international organizations in the same fields, recommends:

1. That those Governments which are members both of the Food and Agriculture Organization of the United Nations (hereinafter called "the Organization") and of the International Institute of Agriculture at Rome (hereinafter called "the Institute") acting through the Permanent Committee of the Institute, call a session of the General Assembly as soon as possible, but not later than June 30, 1946.

2. That the Permanent Committee of the Institute be requested to prepare a scheme to be approved by a majority of votes in the General Assembly, as follows:

- (*a*) A Protocol shall be concluded and signed by signatory and adhering governments to the Convention of Rome of June 7, 1905, by which the affairs of the Institute, including its Annex, the Centre International de Sylviculture, shall be wound up, as from a date to be determined by the Protocol.

## FOOD AND AGRICULTURE ORGANIZATION

- (b) The Permanent Committee shall be empowered by the Protocol and shall be instructed accordingly by the General Assembly (i) to wind up the affairs of the Institute, and (ii) to transfer the library, archives, and property of the Institute to the Organization, which will decide their location.
  - (c) The Protocol shall further provide that, in the execution of the provisions of the international conventions which attribute functions to the Institute, the Organization shall be substituted for the Institute, and governments which are not signatories of or do not accede to the Protocol, shall be notified thereof, and shall be invited to co-operate in the execution of this proposal.
3. That the United Nations require in peace treaties with enemy countries now under occupation that those countries carry out the provisions of the Protocol.

### VI. RECOMMENDATION CONCERNING COMITÉ INTERNATIONAL DU BOIS

The Conference,

being desirous of avoiding overlapping and duplication of effort among international organizations, recommends:

1. That those Governments which are members both of the Food and Agriculture Organization of the United Nations (hereafter called "the Organization") and of the Comité International du Bois (hereafter called "the C.I.B.") call a session of the Permanent Committee of the C.I.B. as soon as possible, but not later than June 30, 1946, with a view to making the necessary arrangements under Article IX of the Statute of the C.I.B. for:

- (a) the winding up of the affairs of the C.I.B.; and
- (b) the transfer of the library, archives, and property of the C.I.B. to the Organization, which will decide their location.

2. That FAO carry on such of the activities of the C.I.B. as are consistent with the purposes of the Organization set forth in its Constitution.

### VII. STATEMENT ON REGIONAL OFFICES

The Conference,

Recognizing that regional offices of FAO will be required, and

Recognizing further that, as far as possible, these offices should be established in co-operation with other regional offices of the United Nations or of the other specialized agencies, and should, if convenient, be located in the same buildings,

## FOOD AND AGRICULTURE ORGANIZATION

1. Requests that the Director-General and the Executive Committee study the number and location of the regional offices to be established, due regard being paid in each case to the actual functions, scope and structure of such offices, and report thereon to the next Session of the Conference.

2. Empowers the Director-General, pending such report to the Second Session of the Conference, to establish, with the approval of the Executive Committee, on a provisional basis, such regional offices of the FAO as he may deem necessary.

### VIII. RECOMMENDATION CONCERNING RULES OF PROCEDURE

The Conference recommends:

That consideration be given at an appropriate time to the advisability of assimilating where feasible the Rules and Regulations of FAO with those of other United Nations organizations.

### IX. DESIGNATION OF THE SEAT OF THE ORGANIZATION:

#### PERMANENT RULES OF PROCEDURE: RULE XXXII

1. The seat of the Organization shall be situated at the same place as the headquarters of the UNO. Pending a decision regarding the headquarters of the UNO, the headquarters of the Organization shall be in Washington, D.C.\*

\* The following statement was adopted as a footnote to Rule XXXII.

“It is assumed that the headquarters of the United Nations Organization will include the headquarters of the Economic and Social Council, that part of the United Nations Organization with which the Food and Agriculture Organization will be most closely associated.”

## THE INTERNATIONAL LABOUR ORGANIZATION<sup>1</sup>

Twenty-Seventh Session, Paris, November 1945

### RESOLUTION CONCERNING THE RELATIONSHIP BETWEEN THE INTERNATIONAL LABOUR ORGANIZATION AND THE UNITED NATIONS

Whereas the Charter of the United Nations proclaims the determination of the peoples of the United Nations to “save succeeding generations from the scourge of war”, to “reaffirm faith in fundamental human rights” and in the “dignity and worth of the human

<sup>1</sup> United Nations Preparatory Commission, PC/ES/4.

## I.L.O. AND THE UNITED NATIONS

person", to "establish conditions under which justice and respect for the obligations arising from the treaties and other sources of international law can be maintained", to "promote social progress and better standards of life in larger freedom", and for these ends "to employ international machinery for the promotion of the economic and social advancement of all peoples"; and

Whereas the Charter establishes for the attainment of these ends an international organization to be known as the United Nations, and provides that international organizations established by inter-governmental agreement, and having wide international responsibilities, as defined by their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations; and

Whereas the Constitution of the International Labour Organization affirms that universal peace can be established only if it is based on social justice, and declares the intention of the High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, to establish the International Labour Organization as a permanent organization for the promotion of social justice; and

Whereas the Conference of the International Labour Organization, meeting at New York, on November 4, 1941, unanimously declared the victory of the free peoples in the war against totalitarian aggression to be an indispensable condition of the attainment of the ideals of the International Labour Organization; and

Whereas the Declaration of Philadelphia, which was unanimously adopted by the General Conference of the International Labour Organization meeting in its Twenty-Sixth Session at Philadelphia on May 10, 1944, "recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve", among other ends, "full employment and the raising of the standards of living", and "pledges the full co-operation of the International Labour Organization with such international bodies as may be entrusted with a share of the responsibility" for "fuller and broader utilization of the world's productive resources necessary for the achievement of these objectives" and for "the promotion of the health, education and well-being of all peoples"; and

Whereas the Governing Body of the International Labour Office, meeting in London in its Ninety-Fourth Session, unanimously adopted on January 25, 1945, a statement affirming "the desire of the International Labour Organization for association with the general international organization" then contemplated; and

Whereas this statement was conveyed by the International Labour

Organization to the United Nations Conference on International Organization at San Francisco; and

Whereas the Governing Body of the International Labour Office has expressed its desire that all the Members of the United Nations should be associated with the work of the International Labour Organization:

The General Conference of the International Labour Organization:

1. Welcomes the entry into force of the Charter of the United Nations and pledges the full co-operation of the International Labour Organization with the United Nations in pursuance of the objectives set forth in the Charter, the Constitution of the International Labour Organization and the Declaration of Philadelphia:

2. Expresses the keen satisfaction of the International Labour Organization that the Charter provides that the United Nations shall promote: (a) higher standards of living, full employment, and conditions of economic and social progress and development; (b) solutions of international economic, social, health and related problems; and international cultural and educational co-operation; and (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, and embodies a pledge by all Members of the United Nations to take joint and separate action in co-operation with the United Nations for the achievement of their purposes;

3. Confirms the desire of the International Labour Organization to enter into relationship with the United Nations on terms, to be determined by agreement, which will permit the International Labour Organization, in which the representatives of workers and employers enjoy equal status with those of Governments, to co-operate fully for the attainment of these ends, while retaining the authority essential for the discharge of its responsibilities under the Constitution of the Organization and the Declaration of Philadelphia: and

4. Authorizes the Governing Body of the International Labour Office to enter, subject to the approval of the Conference, into such agreements with the appropriate authorities of the United Nations as may be necessary or desirable for this purpose.

DESIDERATA IN REGARD TO RELATIONS BETWEEN THE INTERNATIONAL  
LABOUR ORGANIZATION AND THE UNITED NATIONS

Extract from Report of the Constitutional Committee

The statement conveyed by the representatives of the International Labour Organization to the United Nations Conference on International Organization at San Francisco summarizes in the

## I.L.O. AND THE UNITED NATIONS

following terms the desiderata in regard to the relationship between the International Labour Organization and the United Nations which were defined by the Governing Body in London for the guidance of the negotiating delegation in January 1945.

"The International Labour Organization needs and desires, within the new framework, enough freedom of action to discharge its responsibilities and particularly to assure that the voice which the workers and employers exercise in world affairs through the International Labour Organization remains a real one. It goes without saying that the tripartite form of organization, which has given the International Labour Organization its special character and its special strength, should be maintained. The International Labour Organization's direct relations with Governments should remain unimpaired. It should have access to the General Assembly and a position within the new organization which will enable it to make an effective contribution. The working out of this position may be left to the negotiations contemplated in the Dumbarton Oaks proposals, and we are confident that the terms finally agreed on will be such as to permit the necessary freedom within the framework of co-ordinated effort.

The International Labour Organization has pledged its full co-operation with the other international organizations to be included within the great structure which you are building here and has made clear its hope and confidence that all of the United Nations will co-operate with it to make effective the social objectives set forth in the Declaration of Philadelphia. We realise that it will be necessary to alter the Constitution of the International Labour Organization in order to provide the necessary links with the United Nations, and we are also in course of examining the constitutional changes necessary to enable us to do our own work better."

### CONSTITUTIONAL AMENDMENTS ADOPTED BY THE INTERNATIONAL LABOUR CONFERENCE

November, 1945

#### *Article 2*

2. The Members of the International Labour Organization shall be the States which were Members of the Organization on November 1, 1945, and such other States as may become Members in pursuance of the provisions of paragraphs 3 and 4 of this Article.

3. Any original Member of the United Nations and any State admitted to membership of the United Nations by a decision of the General Assembly in accordance with the provisions of the Charter may become a member of the International Labour Organization

by communicating to the Director of the International Labour Office its formal acceptance of the obligations of the Constitution of the International Labour Organization.

*Article 3*

1. The International Labour Organization may make such financial and budgetary arrangements with the United Nations as may appear appropriate.

# CONSTITUTION OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION<sup>1</sup>

London, November 16, 1945

The Governments of the States parties to this Constitution on behalf of their peoples declare,  
that since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed;  
that ignorance of each other's ways and lives has been a common cause, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war;  
that the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races;  
that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern;  
that a peace based exclusively upon the political and economic arrangements of governments would not be a peace which could secure the unanimous, lasting and sincere support of the peoples of the world, and that the peace must therefore be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind.

For these reasons, the States parties to this Constitution, believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge, are agreed and determined to develop and to increase the means of communication between their peoples and to employ these means for the purposes of mutual understanding and a truer and more perfect knowledge of each other's lives;

<sup>1</sup> Cmd. 6711.

## UNESCO CONSTITUTION

In consequence whereof they do hereby create the United Nations Educational, Scientific and Cultural Organization for the purpose of advancing, through the educational and scientific and cultural relations of the peoples of the world, the objectives of international peace and of the common welfare of mankind for which the United Nations Organization was established and which its Charter proclaims.

### *Article I*

#### PURPOSES AND FUNCTIONS

1. The purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

2. To realize this purpose the Organization will:

(a) collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image;

(b) give fresh impulse to popular education and to the spread of culture;

by collaborating with Members, at their request, in the development of educational activities;

by instituting collaboration among the nations to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social;

by suggesting educational methods best suited to prepare the children of the world for the responsibilities of freedom;

(c) maintain, increase and diffuse knowledge;

by assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions;

by encouraging co-operation among the nations in all branches of intellectual activity, including the international exchange of persons active in the fields of education, science and culture and the exchange of publications, objects of artistic and scientific interest and other materials of information; by initiating methods of international co-operation calculated to give the people of all countries access to the printed and published materials produced by any of them.



3. With a view to preserving the independence, integrity and fruitful diversity of the cultures and educational systems of the States Members of this Organization, the Organization is prohibited from intervening in matters which are essentially within their domestic jurisdiction.

## *Article II*

### MEMBERSHIP

1. Membership of the United Nations Organization shall carry with it the right to membership of the United Nations Educational, Scientific and Cultural Organization.

2. Subject to the conditions of the agreement between this Organization and the United Nations Organization, approved pursuant to Article X of this Constitution, States not members of the United Nations Organization may be admitted to membership of the Organization, upon recommendation of the Executive Board, by a two-thirds majority vote of the General Conference.

3. Members of the Organization which are suspended from the exercise of the rights and privileges of membership of the United Nations Organization shall, upon the request of the latter, be suspended from the rights and privileges of this Organization.

4. Members of the Organization which are expelled from the United Nations Organization shall automatically cease to be members of this Organization.

## *Article III*

### ORGANS

The Organization shall include a General Conference, an Executive Board and a Secretariat.

## *Article IV*

### THE GENERAL CONFERENCE

#### A. Composition

1. The General Conference shall consist of the representatives of the States Members of the Organization. The Government of each Member State shall appoint not more than five delegates, who shall be selected after consultation with the National Commission, if established, or with educational, scientific and cultural bodies.

#### B. Functions

2. The General Conference shall determine the policies and the main lines of work of the Organization. It shall take decisions on programmes drawn up by the Executive Board.

## UNESCO CONSTITUTION

3. The General Conference shall, when it deems it desirable, summon international conferences on education, the sciences and humanities and the dissemination of knowledge.

4. The General Conference shall, in adopting proposals for submission to the Member States, distinguish between recommendations and international conventions submitted for their approval. In the former case a majority vote shall suffice; in the latter case a two-thirds majority shall be required. Each of the Member States shall submit recommendations or conventions to its competent authorities within a period of one year from the close of the session of the General Conference at which they were adopted.

5. The General Conference shall advise the United Nations Organization on the educational, scientific and cultural aspects of matters of concern to the latter, in accordance with the terms and procedure agreed upon between the appropriate authorities of the two Organizations.

6. The General Conference shall receive and consider the reports submitted periodically by Member States as provided by Article VIII.

7. The General Conference shall elect the members of the Executive Board and, on the recommendation of the Board, shall appoint the Director-General.

### C. Voting

8. Each Member State shall have one vote in the General Conference. Decisions shall be made by a simple majority except in cases in which a two-thirds majority is required by the provisions of this Constitution. A majority shall be a majority of the Members present and voting.

### D. Procedure

9. The General Conference shall meet annually in ordinary session; it may meet in extraordinary session on the call of the Executive Board. At each session the location of its next session shall be designated by the General Conference and shall vary from year to year.

10. The General Conference shall, at each session, elect a President and other officers and adopt rules of procedure.

11. The General Conference shall set up special and technical committees and such other subordinate bodies as may be necessary for its purposes.

12. The General Conference shall cause arrangements to be made for public access to meetings, subject to such regulations as it shall prescribe.

### E. Observers

13. The General Conference, on the recommendation of the Executive Board and by a two-thirds majority, may, subject to its rules of procedure, invite as observers at specified sessions of the Conference or of its commissions representatives of international organizations, such as those referred to in Article XI, paragraph 4.

## Article V

### EXECUTIVE BOARD

#### A. Composition

1. The Executive Board shall consist of eighteen members elected by the General Conference from among the delegates appointed by the Member States, together with the President of the Conference who shall sit *ex officio* in an advisory capacity.

2. In electing the members of the Executive Board the General Conference shall endeavour to include persons competent in the arts, the humanities, the sciences, education and the diffusion of ideas, and qualified by their experience and capacity to fulfil the administrative and executive duties of the Board. It shall also have regard to the diversity of cultures and a balanced geographical distribution. Not more than one national of any Member State shall serve on the Board at any one time, the President of the Conference excepted.

3. The elected members of the Executive Board shall serve for a term of three years, and shall be immediately eligible for a second term, but shall not serve consecutively for more than two terms. At the first election eighteen members shall be elected of whom one-third shall retire at the end of the first year and one-third at the end of the second year, the order of retirement being determined immediately after the election by the drawing of lots. Thereafter six members shall be elected each year.

4. In the event of the death or resignation of one of its members, the Executive Board shall appoint, from among the delegates of the Member State concerned, a substitute, who shall serve until the next session of the General Conference which shall elect a member for the remainder of the term.

#### B. Functions

5. The Executive Board, acting under the authority of the General Conference, shall be responsible for the execution of the programme adopted by the Conference and shall prepare its agenda and programme of work.

6. The Executive Board shall recommend to the General Conference the admission of new Members to the Organization.

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7. Subject to decisions of the General Conference, the Executive Board shall adopt its own rules of procedure. It shall elect its officers from among its members.

8. The Executive Board shall meet in regular session at least twice a year and may meet in special session if convoked by the Chairman on his own initiative or upon the request of six members of the Board.

9. The Chairman of the Executive Board shall present to the General Conference, with or without comment, the annual report of the Director-General on the activities of the Organization, which shall have been previously submitted to the Board.

10. The Executive Board shall make all necessary arrangements to consult the representatives of international organizations or qualified persons concerned with questions within its competence.

11. The members of the Executive Board shall exercise the powers delegated to them by the General Conference on behalf of the Conference as a whole and not as representatives of their respective Governments.

### *Article VI*

#### SECRETARIAT

1. The Secretariat shall consist of a Director-General and such staff as may be required.

2. The Director-General shall be nominated by the Executive Board and appointed by the General Conference for a period of six years, under such conditions as the Conference may approve, and shall be eligible for reappointment. He shall be the chief administrative officer of the Organization.

3. The Director-General, or a deputy designated by him, shall participate, without the right to vote, in all meetings of the General Conference, of the Executive Board, and of the committees of the Organization. He shall formulate proposals for appropriate action by the Conference and the Board.

4. The Director-General shall appoint the staff of the Secretariat in accordance with staff regulations to be approved by the General Conference. Subject to the paramount consideration of securing the highest standards of integrity, efficiency and technical competence, appointment to the staff shall be on as wide a geographical basis as possible.

5. The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their

position as international officials. Each State Member of the Organization undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties.

6. Nothing in this Article shall preclude the Organization from entering into special arrangements within the United Nations Organization for common services and staff and for the interchange of personnel.

### *Article VII*

#### NATIONAL CO-OPERATING BODIES

1. Each Member State shall make such arrangements as suit its particular conditions for the purpose of associating its principal bodies interested in educational, scientific and cultural matters with the work of the Organization, preferably by the formation of a National Commission broadly representative of the Government and such bodies.

2. National Commissions or national co-operating bodies, where they exist, shall act in an advisory capacity to their respective delegations to the General Conference and to their Governments in matters relating to the Organization and shall function as agencies of liaison in all matters of interest to it.

3. The Organization may, on the request of a Member State, delegate, either temporarily or permanently, a member of its Secretariat to serve on the National Commission of that State, in order to assist in the development of its work.

### *Article VIII*

#### REPORTS BY MEMBER STATES

Each Member State shall report periodically to the Organization, in a manner to be determined by the General Conference, on its laws, regulations and statistics relating to educational, scientific and cultural life and institutions, and on the action taken upon the recommendations and conventions referred to in Article IV, paragraph 4.

### *Article IX*

#### BUDGET

1. The budget shall be administered by the Organization.

2. The General Conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the States Members of the Organization subject to such arrangement with the United Nations as may be provided in the agreement to be entered into pursuant to Article X.

## UNESCO CONSTITUTION

3. The Director-General, with the approval of the Executive Board, may receive gifts, bequests, and subventions directly from Governments, public and private institutions, associations and private persons.

### *Article X*

#### RELATIONS WITH THE UNITED NATIONS ORGANIZATION

This Organization shall be brought into relation with the United Nations Organization, as soon as practicable, as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations. This relationship shall be effected through an agreement with the United Nations Organization under Article 63 of the Charter, which agreement shall be subject to the approval of the General Conference of this Organization. The agreement shall provide for effective co-operation between the two Organizations in the pursuit of their common purposes, and at the same time shall recognize the autonomy of this Organization, within the fields of its competence as defined in this Constitution. Such agreement may, among other matters, provide for the approval and financing of the budget of the Organization by the General Assembly of the United Nations.

### *Article XI*

#### RELATIONS WITH OTHER SPECIALIZED INTERNATIONAL ORGANIZATIONS AND AGENCIES

1. This Organization may co-operate with other specialized inter-governmental organizations and agencies whose interests and activities are related to its purposes. To this end the Director-General, acting under the general authority of the Executive Board, may establish effective working relationships with such organizations and agencies and establish such joint committees as may be necessary to assure effective co-operation. Any formal arrangements entered into with such organizations or agencies shall be subject to the approval of the Executive Board.

2. Whenever the General Conference of this Organization and the competent authorities of any other specialized inter-governmental organizations or agencies whose purposes and functions lie within the competence of this Organization, deem it desirable to effect a transfer of their resources and activities to this Organization, the Director-General, subject to the approval of the Conference, may enter into mutually acceptable arrangements for this purpose.

3. This Organization may make appropriate arrangements with other inter-governmental organizations for reciprocal representation at meetings.

4. The United Nations Educational, Scientific and Cultural Organization may make suitable arrangements for consultation and co-operation with non-governmental international organizations concerned with matters within its competence, and may invite them to undertake specific tasks. Such co-operation may also include appropriate participation by representatives of such organizations on advisory committees set up by the General Conference.

### *Article XII*

#### LEGAL STATUS OF THE ORGANIZATION

The provisions of Articles 104 and 105 of the Charter of the United Nations Organization concerning the legal status of that Organization, its privileges and immunities shall apply in the same way to this Organization.

### *Article XIII*

#### AMENDMENTS

1. Proposals for amendments to this Constitution shall become effective upon receiving the approval of the General Conference by a two-thirds majority; provided, however, that those amendments which involve fundamental alterations in the aims of the Organization or new obligations for the Member States shall require subsequent acceptance on the part of two-thirds of the Member States before they come into force. The draft texts of proposed amendments shall be communicated by the Director-General to the Member States at least six months in advance of their consideration by the General Conference.

2. The General Conference shall have power to adopt by a two-thirds majority rules of procedure for carrying out the provisions of this Article.

### *Article XIV*

#### INTERPRETATION

1. The English and French texts of this Constitution shall be regarded as equally authoritative.

2. Any question or dispute concerning the interpretation of this Constitution shall be referred for determination to the International Court of Justice or to an arbitral tribunal, as the General Conference may determine under its rules of procedure.

*Article XV*

## ENTRY INTO FORCE

1. This Constitution shall be subject to acceptance. The instruments of acceptance shall be deposited with the Government of the United Kingdom.

2. This Constitution shall remain open for signature in the archives of the Government of the United Kingdom. Signature may take place either before or after the deposit of the instrument of acceptance. No acceptance shall be valid unless preceded or followed by signature.

3. This Constitution shall come into force when it has been accepted by twenty of its signatories. Subsequent acceptances shall take effect immediately.

4. The Government of the United Kingdom will inform all members of the United Nations of the receipt of all instruments of acceptance and of the date on which the Constitution comes into force in accordance with the preceding paragraph.

In faith whereof, the undersigned, duly authorized to that effect, have signed this Constitution in the English and French languages, both texts being equally authentic.

Done in London the sixteenth day of November, 1945, in a single copy, in the English and French languages, of which certified copies will be communicated by the Government of the United Kingdom to the Governments of all the Members of the United Nations.

The Governments of the following countries were represented at the Conference, at which the Constitution was adopted:

Argentine Republic	France	Peru
Australia	Greece	Philippines, The
Belgium	Guatemala	Poland
Bolivia	Haiti	Saudi Arabia
Brazil	India	Syria
Canada	Iran	Turkey
Chile	Iraq	Union of South Africa
China	Lebanon	United Kingdom of
Colombia	Liberia	Great Britain and
Cuba	Luxembourg	Northern Ireland
Czechoslovakia	Mexico	United States of
Denmark	Netherlands, The	America
Dominican Republic	New Zealand	Uruguay
Ecuador	Nicaragua	Venezuela (represent-
El Salvador	Norway	ed by an Observer)
Egypt	Panama	Yugoslavia



The following international organizations were also represented by Observers:

International Labour Organization  
League of Nations Secretariat  
League of Nations Committee on Intellectual Co-operation  
International Institute of Intellectual Co-operation  
Pan-American Union  
United Nations Relief and Rehabilitation Administration  
(UNRRA)  
International Bureau of Education.

PROPOSALS FOR CONSIDERATION BY AN INTERNATIONAL CONFERENCE ON TRADE AND EMPLOYMENT AS TRANSMITTED BY THE SECRETARY OF STATE OF THE UNITED STATES OF AMERICA TO HIS MAJESTY'S AMBASSADOR AT WASHINGTON<sup>1</sup>

Washington, December 6, 1945

A. NEED FOR INTERNATIONAL ECONOMIC CO-OPERATION

1. Collective measures to safeguard the peoples of the world against threats to peace and to reach just settlements of disputes among nations must be based not only on international machinery to deal directly with disputes and to prevent aggression, but also on economic co-operation among nations with the object of preventing and removing economic and social maladjustments, of achieving fairness and equity in economic relations between states, and of raising the level of economic well-being among all peoples.

2. Important contributions have already been made toward the attainment of these objectives. The Food and Agriculture Organization of the United Nations has been established. An International Monetary Fund to maintain reasonable exchange stability and facilitate adjustment in the balance of payments of member countries, and an International Bank for Reconstruction and Development to provide financial resources on a co-operative basis for those purposes are awaiting the action of governments required for their establishment.

3. In order to reach the objectives of the Atlantic Charter and Article VII of the mutual-aid agreements, it is essential that the co-operative economic measures already taken or recommended be supplemented by further measures dealing directly with trade barriers

<sup>1</sup> Cmd. 6709.

## PROPOSALS ON TRADE AND EMPLOYMENT

and discriminations which stand in the way of an expansion of multilateral trade and by an undertaking on the part of nations to seek full employment.

4. Co-operative action with respect to trade and employment is indispensable to the success of such other measures as those dealing with monetary and exchange stability and the flow of investment capital. Effective action in regard to employment and to trade barriers and discriminations must, therefore, be taken or the whole programme of international economic co-operation will fail, and an economic environment conducive to the maintenance of peaceful international relations will not be created.

### B. PROPOSALS CONCERNING EMPLOYMENT

Since high and stable levels of employment are a necessary condition for an enlarged volume of trade, and since problems of trade and employment are to be considered jointly at an international conference, the following propositions are advanced.

#### GOVERNING PRINCIPLES

1. It is recognized that:

- (a) In all countries high and stable employment is a main condition for the attainment of satisfactory levels of living.
- (b) The attainment of approximately full employment by the major industrial and trading nations, and its maintenance on a reasonably assured basis, are essential to the expansion of international trade on which the full prosperity of these and other nations depends; to the full realization of the objectives of all liberal international agreements in such fields as commercial policy, commodity problems, restrictive business practices, monetary stabilization, and investment; and, therefore, to the preservation of world peace and security.

2. Domestic programmes to expand employment should be consistent with realization of the purposes of liberal international agreements and compatible with the economic well-being of other nations.

3. It is recognized that the adoption of the Bretton Woods Agreements and of measures to reduce restrictions on trade will contribute substantially to the maintenance of productive employment.

4. The United Nations have pledged, in the Charter of the United Nations Organization, to take joint and separate action in co-operation with the Organization to achieve the economic and social purposes of the United Nations, including higher standards of living, full employment, and conditions of economic and social progress and development.

## PROPOSALS ON TRADE AND EMPLOYMENT

### EFFECTUATION OF AIMS

There should be an undertaking that:

1. Each of the signatory nations will take action designed to achieve and maintain full employment within its own jurisdiction, through measures appropriate to its political and economic institutions.
2. No nation will seek to maintain employment through measures which are likely to create unemployment in other countries or which are incompatible with international undertakings designed to promote an expanding volume of international trade and investment in accordance with comparative efficiencies of production.
3. Signatory nations will make arrangements, both individually and collaboratively under the general sponsorship of the Economic and Social Council of the United Nations Organization, for the collection, analysis and exchange of information on employment problems, trends, and policies.
4. Signatory nations will, under the general sponsorship of the Economic and Social Council, consult regularly on employment problems and hold special conferences in case of threat of widespread unemployment.

### C. PROPOSALS CONCERNING AN INTERNATIONAL TRADE ORGANIZATION

#### NEED FOR AN INTERNATIONAL TRADE ORGANIZATION

1. Measures designed to effect an expansion of trade are essential because of their direct contribution to maximum levels of employment, production and consumption. Since such expansion can only be attained by collective measures, in continuous operation and adaptable to economic changes, it is necessary to establish permanent machinery for international collaboration in matters affecting international commerce, with a view to continuous consultation, the provision of expert advice, the formulation of agreed policies, procedures and plans, and to the development of agreed rules of conduct in regard to matters affecting international trade.

2. It is accordingly proposed that there be created an International Trade Organization of the United Nations, the members of which would undertake to conduct their international commercial policies and relations in accordance with agreed principles to be set forth in the articles of the Organization. These principles, in order to make possible an effective expansion of world production, employment, exchange and consumption, should:

## PROPOSALS ON TRADE AND EMPLOYMENT

- (a) Provide an equitable basis for dealing with the problems of governmental measures affecting international trade;
- (b) Provide for the curbing of restrictive trade practices resulting from private and international business arrangements; and
- (c) Govern the institution and operation of inter-governmental commodity arrangements.

### PROPOSED INTERNATIONAL TRADE ORGANIZATION

There follows an outline of the principles which it is proposed should be incorporated in the articles of the Organization.

## CHAPTER I

### PURPOSES

The purposes of the Organization should be:

1. To promote international commercial co-operation by establishing machinery for consultation and collaboration among member governments regarding the solution of problems in the field of international commercial policies and relations.
2. To enable members to avoid recourse to measures destructive of world commerce by providing, on a reciprocal and mutually advantageous basis, expanding opportunities for their trade and economic development.
3. To facilitate access by all members, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity.
4. In general, to promote national and international action for the expansion of the production, exchange and consumption of goods, for the reduction of tariffs and other trade barriers, and for the elimination of all forms of discriminatory treatment in international commerce; thus contributing to an expanding world economy, to the establishment and maintenance in all countries of high levels of employment and real income, and to the creation of economic conditions conducive to the maintenance of world peace.

## CHAPTER II

### MEMBERSHIP

The original members of the Organization should be those countries participating in the Conference on Trade and Employment which accept membership.

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### CHAPTER III

#### GENERAL COMMERCIAL POLICY

##### Section A. General Commercial Provisions

Members should undertake:

1. To accord to products imported from other members treatment no less favourable than that accorded to domestic products with regard to matters affecting the internal taxation and regulation of the trade in goods.
2. To provide, for products in transit through their territories, coming from or going to other members, freedom from customs and transit duties, from unreasonable transit charges, and from discriminatory treatment of all kinds.
3. To subscribe to a general definition of the circumstances under which antidumping and countervailing duties may properly be applied to products imported from other members.
4. To give effect, as soon as practicable, to agreed principles of tariff valuation designed to assure the use of true commercial values as a basis for assessing duties, and to co-operate with other members and with the Organization in working out internationally acceptable valuation procedures of a standardized character.
5. To give effect, as soon as practicable, to agreed principles looking toward the simplification of customs formalities with a view to eliminating unnecessary requirements which afford an indirect protection to domestic products.
6. To eliminate excessive requirements regarding marks of origin in so far as they affect products imported from other members.
7. To refrain from governmentally financed or organized boycotts or campaigns designed to discourage, directly or indirectly, importation or consumption of products of other members.
8. To provide for adequate publicity regarding laws and regulations affecting foreign trade, and to maintain or establish national tribunals of an independent character to review and correct administrative customs action.
9. To transmit to the Organization appropriate trade information and statistics.
10. To co-operate with the Organization and with other members in carrying out or implementing the articles of the Organization.

##### Section B. Tariffs and Preferences

1. *Import tariffs and preferences.* In the light of the principles set forth in Article VII of the mutual-aid agreements, members should enter

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into arrangements for the substantial reduction of tariffs and for the elimination of tariff preferences, action for the elimination of tariff preferences being taken in conjunction with adequate measures for the substantial reduction of barriers to world trade, as part of the mutually advantageous arrangements contemplated in this document.

As an initial step in the process of eliminating tariff preferences it should be agreed that:

- (a) Existing international commitments will not be permitted to stand in the way of action agreed upon with respect to tariff preferences.
- (b) All negotiated reductions in most-favoured-nation tariffs will operate automatically to reduce or eliminate margins of preference.
- (c) Margins of preference on any product will in no case be increased and no new preferences will be introduced.

2. *Export tariffs and preferences.* Export duties should be open to negotiation in the same way as import duties. Members should undertake not to impose or maintain export duties which differentiate by reference to the destinations to which the goods are exported.

3. *Emergency action.* Commitments with regard to tariffs should permit countries to take temporary action to prevent sudden and widespread injury to the producers concerned. Undertakings for reducing tariffs should therefore contain an escape clause to cover such contingencies.

### Section C. Quantitative Trade Restrictions

1. *General elimination of quantitative restrictions.* Except as provided for elsewhere in this Chapter, members should undertake not to maintain any quotas, embargoes, or other quantitative restrictions on their export or import trade with other members. This undertaking should not, however, apply to the following:

- (a) Import and export prohibitions or restrictions, imposed during the early post-war transitional period, which are essential to (a) the efficient use of shipping space in short supply, (b) the equitable international distribution of products in short supply, or (c) the orderly liquidation of temporary surpluses of government stocks accumulated as a result of the war. Such prohibitions and restrictions should be removed not later than three years after the close of hostilities, but provision should be made whereby this period may be extended with the concurrence of the Organization.

- (b) Export prohibitions or restrictions temporarily imposed to relieve conditions of distress in the exporting country caused by severe shortages of foodstuffs or other essential products.
- (c) Export prohibitions or restrictions necessary to the application of suitable standards for the classification and grading of commodities in international commerce.
- (d) Export or import quotas imposed under inter-governmental commodity agreements conforming to the principles set forth in Chapter V.
- (e) Import quotas on agricultural products, imported in any form, necessary to the enforcement of governmental measures which operate (a) to restrict the quantities of like domestic products which may be marketed or produced, or (b) to remove a temporary surplus of like domestic products by making such surpluses available to certain groups of domestic consumers free of charge or at prices below the current market level. Such quotas should not be more restrictive than necessary, should be removed as soon as they cease to be necessary for the purposes of this sub-paragraph, and should be made the subject of periodic consultation with the Organization. If such quotas are allocated among sources of supply, they should be allocated fairly, on the basis of imports during a previous representative period, account being taken in so far as practicable of any special factors which may have affected or which may be affecting the trade in the product concerned. Import quotas imposed under (a) of this subparagraph should not be such as would reduce imports relatively to domestic production as compared with the proportion prevailing in a previous representative period, account being taken in so far as practicable of any special factors which may have affected or which may be affecting the trade in the product concerned.

2. *Restrictions to safeguard the balance of payments.* Members confronted with an adverse balance of payments should be entitled to impose quantitative import restrictions as an aid to the restoration of equilibrium in the balance of payments. This provision should be operative under conditions and procedures to be agreed upon. These conditions and procedures

- (a) should set forth criteria and requirements in the light of which balance-of-payments restrictions might be imposed;
- (b) should, as regards the use of such restrictions in the post-war transitional period, be framed on principles which would be designed to promote the maximum development of multi-lateral trade during that period and which in no event would

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be more restrictive of such trade than the principles applicable, under Article XIV of the International Monetary Fund Agreement, to the use of exchange restrictions in the transitional period;

- (c) should provide for the determination of the transitional period for the purposes of sub-paragraph (b), above, by a procedure analogous to that contained in Article XIV of the International Monetary Fund Agreement;
- (d) should provide for the full application of non-discrimination in the use of such restrictions after the transitional period; and
- (e) should make appropriate provision for international consultation regarding balance-of-payments restrictions, whether imposed during the transitional period or thereafter.

3. *Equality of treatment.* Quantitative restrictions imposed on balance-of-payments grounds should be deemed non-discriminatory if they are administered on a basis which does not discriminate among sources of supply in respect of any imported product.

- (a) In the case of restrictions imposed in the form of quotas, members imposing such quotas should publish the global amounts or values of the various products which will be permitted to be imported during a specified future period. Any allocation of such quotas among sources of supply should be based insofar as practicable upon the proportion of the total imports of the product in question supplied by the various member countries in a previous representative period, account being taken of any special factors which may have affected or which may be affecting the trade in that product.
- (b) In the case of restrictions not imposed in the form of quotas, the member imposing the restrictions should undertake to provide, upon the request of any other member having an interest in the product concerned, all relevant information as to the administration of the restriction, including information as to the import licences granted over a past period and the distribution of such licences among sources of supply.
- (c) Any member should be entitled to raise with the Organization the question as to whether another member was imposing balance-of-payments restrictions, whether in the form of quotas or otherwise, in a manner not in harmony with the guiding principles stated above or in a manner which unnecessarily injured its commerce, and the member imposing the restrictions should undertake in these circumstances to discuss the grounds on which it had acted.



4. *Inconvertible currencies.* The undertakings set forth in paragraph 3, above, should not apply in cases in which their application would have the effect of preventing a member from utilizing inconvertible currencies for buying needed imports.

5. *Scarce currencies and currencies of territories having a common quota in the Monetary Fund.* Members should not be precluded by this Section from applying quantitative restrictions (a) in pursuance of action which they may take under Article VII of the International Monetary Fund Agreement, relating to scarce currencies, or (b) in a manner designed to maintain the par value of the currencies of territories having a common quota in the Monetary Fund, in accordance with Article XX, Section 4 (g) of that Agreement.

6. *Application of quantitative restrictions by state-trading organizations.* The provisions of this Section relating to quantitative restrictions on imports for balance-of-payments reasons should apply equally to the restriction of imports by state-trading organizations for the same reasons.

#### Section D. Subsidies

1. *Subsidies in general.* Subject to the provisions of paragraphs 2 and 3, below, members granting any subsidy which operates to increase exports or reduce imports should undertake to keep the Organization informed as to the extent and nature of the subsidy, as to the reason therefor and as to the probable effects on trade. They should also be prepared, in cases where, under procedures approved by the Organization, it is agreed that serious injury to international trade threatens to result from the operation of the subsidy, to discuss with other members or with the Organization possible limitations on the quantity of the domestic product subsidised. In this paragraph, the term "subsidy" includes any form of internal income or price support.

2. *Export subsidies.* Subject to the provisions of paragraph 3, below, members should undertake not to take any action which would result in the sale of a product in export markets at a price lower than the comparable price charged for the like product to buyers in the home market, due allowance being made for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability. This undertaking should take effect, at latest, within three years of the establishment of the Organization. If at the end of that time any member considers itself unable to comply with the undertaking in respect of any particular commodity or commodities it should inform the Organization, with an explanation of the reasons. It should then be decided by consultation among the interested members under procedures

## PROPOSALS ON TRADE AND EMPLOYMENT

approved by the Organization whether there should be some further extension of time for the member desiring it in respect of the commodity or commodities concerned.

### 3. *Commodities in surplus supply*

- (a) When it is determined, in accordance with procedures approved by the Organization, that a commodity is, or is likely to become in burdensome world surplus, the members which are important producers or consumers of the commodity should agree to consult together with a view to promoting consumption increases, to promoting the reduction of production through the diversion of resources from uneconomic production, and to seeking, if necessary, the conclusion of an inter-governmental commodity arrangement in accordance with the principles of Chapter V.
- (b) If, however, within a reasonable time to be agreed upon, such steps should fail of their object, the provisions of paragraphs 1 and 2, above, should cease to apply to such product until such time as it has been agreed under procedures approved by the Organization that those provisions should be re-applied to it.
- (c) With regard to any export subsidies which may be imposed under sub-paragraph (b), no member should employ such subsidies so as to enlarge its share of the world market, as compared with the share prevailing in a previous representative period. The question as to what period would be representative in respect of the particular product concerned should be a subject for international consultation through the Organization.

## Section E. State Trading

1. *Equality of treatment.* Members engaging in state trading in any form should accord equality of treatment to all other members. To this end, members should undertake that the foreign purchases and sales of their state-trading enterprises shall be influenced solely by commercial considerations, such as price, quality, marketability, transportation and terms of purchase or sale.

2. *State monopolies of individual products.* Members maintaining a state monopoly in respect of any product should undertake to negotiate, in the manner contemplated for tariffs, the maximum protective margin between the landed price of the product and the price at which the product (of whatever origin, domestic or foreign) is sold in the home market. Members newly establishing such monopolies should agree not to create protective margins greater than the tariffs which may have been negotiated in regard to those products. Unless the product is subject to rationing, the monopoly should offer for sale

such quantities of the product as will be sufficient to satisfy the full domestic demand.

3. *Complete state monopolies of foreign trade.* As the counterpart of tariff reductions and other actions to encourage an expansion of multilateral trade by other members, members having a complete state monopoly of foreign trade should undertake to purchase annually from members, on the non-discriminatory basis referred to in paragraph 1, above, products valued at not less than an aggregate amount to be agreed upon. This global purchase arrangement should be subject to periodic adjustment in consultation with the Organization.

## Section F. Exchange Control

1. *Relation to the International Monetary Fund.* In order to avoid the imposition of trade restrictions and discriminations through exchange techniques, the members of the International Trade Organization should abide by the exchange principles established pursuant to the Articles of Agreement of the International Monetary Fund and for this reason it should be required that the Organization and the Fund have a common membership.

2. *Equality of Exchange Treatment.* Members maintaining or establishing exchange restrictions should undertake to accord to the trade of other members the equality of treatment with respect to all aspects of such restrictions required under the provisions of the Articles of Agreement of the International Monetary Fund or, in cases where the approval of the Fund is required, the equality of treatment prescribed by the Fund after consultation with the International Trade Organization.

## Section G. General Exceptions

The undertakings in this Chapter should not be construed to prevent members from adopting or enforcing measures:

1. necessary to protect public morals;
2. necessary to protect human, animal or plant life or health;
3. relating to the traffic in arms, ammunition and implements of war, and, in exceptional circumstances, all other military supplies;
4. relating to the importation or exportation of gold or silver;
5. necessary to induce compliance with laws or regulations, such as those relating to customs enforcement, deceptive practices, and the protection of patents, trademarks and copyrights, which are not inconsistent with the purposes of the Organization;
6. relating to prison-made goods;

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7. imposed for the protection of national treasures of artistic, historic or archaeological value;
8. undertaken in pursuance of obligations for the maintenance of peace and security; or
9. imposed, in exceptional cases, in accordance with a recommendation of the Organization formulated in accordance with criteria and procedures to be agreed upon.

### Section H. Territorial Application of Chapter III

1. *Customs territories.* The provisions of Chapter III should apply to the customs territories of the members. If any member has more than one customs territory under its jurisdiction, each customs territory should be considered a separate member for the purpose of applying the provisions of Chapter III.

2. *Frontier traffic and customs unions.* The provisions of Chapter III should not prevent any member (a) from according advantages to adjacent countries in order to facilitate frontier traffic, or (b) from joining a customs union, provided that such customs union meets certain agreed criteria. Members proposing to join a customs union should consult with the Organization and should make available to it such information as would enable it to make appropriate reports and recommendations.

## CHAPTER IV

### RESTRICTIVE BUSINESS PRACTICES

1. *Curbing of restrictive business practices.* There should be individual and concerted efforts by members of the Organization to curb those restrictive business practices in international trade (such as combinations or agreements to fix prices and terms of sale, divide markets or territories, limit production or exports, suppress technology or invention, exclude enterprises from particular fields, or boycott or discriminate against particular firms) which have the effect of frustrating the objectives of the Organization to promote expansion of production and trade, equal access to markets and raw materials, and the maintenance in all countries of high levels of employment and real income.

2. *Co-operation among members.* In order to achieve the purposes of paragraph 1, the Organization should be charged with the furtherance of this objective. The Organization should receive complaints from any member (or, with the permission of the member, from commercial enterprises within its jurisdiction who allege that their interests are affected), that the objectives of the Organization are being frustrated by a private international combination or agreement. The Organization should be empowered to call upon any

member to provide information relevant to such a complaint; it should consider such data and, if warranted, make recommendations to the appropriate members for action in accordance with their respective laws and procedures; it should be empowered to request reports from members as to their actions in implementing such recommendations, and to report thereon. The Organization should also be authorized, within the scope of its subject matter, to conduct studies, to make recommendations concerning uniform national standards, and to call conferences of member states for purposes of general consultation.

3. *Continued effectiveness of national laws and regulations directed against restrictive business practices.* Any act or failure to act on the part of the Organization should not preclude any member from enforcing within its own jurisdiction any national statute or decree directed toward the elimination or prevention of restrictive business practices in international trade.

4. *Special enforcement arrangements.* It should be provided that members may, by mutual accord, co-operate in measures for the purpose of making more effective any remedial order which has been issued by a duly authorized agency of another member.

## CHAPTER V

### INTER-GOVERNMENTAL COMMODITY ARRANGEMENTS

The production of, and trade in, primary commodities is exposed to certain difficulties different in character from those which generally exist in the case of manufactured goods; and these difficulties, if serious, may have such widespread repercussions as to prejudice the prospect of the general policy of economic expansion. Members should therefore agree upon the procedure which should be adopted to deal with such difficulties.

#### 1. *Special commodity studies*

- (a) Special studies should be made in accordance with the procedure set forth in (b), below, of the position of particular commodities of which excess supplies exist or are threatened, to the end that, if possible, consumption may be increased and the anticipated difficulties may thereby be averted.
- (b) Members substantially interested in the production or consumption of a particular commodity should be entitled, if they consider that special difficulties exist or are expected to arise regarding that commodity, to ask that a special study of that commodity be made, and the Organization, if it finds that these representations are well founded, should invite the mem-

## PROPOSALS ON TRADE AND EMPLOYMENT

bers principally concerned in the production or consumption of that commodity to appoint representatives to a Study Group to make a special study of that commodity.

2. *Inter-governmental commodity conferences.* If it is concluded, in the light of an investigation of the root causes of the problem, that measures for increasing the consumption of a commodity are unlikely to operate quickly enough to prevent excess supplies of the commodity from accumulating, the members may ask the Organization to convene an inter-governmental conference for the purpose of framing an inter-governmental commodity agreement for the commodity concerned.

3. *Objectives of inter-governmental commodity agreements.* It should be recognized that inter-governmental commodity agreements involving restrictions on production or trade would be justified in the circumstances stated in paragraph 2 above to achieve the following objectives:

- (a) To enable member countries to find solutions to particular commodity problems without resorting to unilateral action that tends to shift the burden of their problems to other countries.
- (b) To prevent or alleviate the serious economic problems which may arise when, owing to the difficulties of finding alternative employment, production adjustments cannot be effected by the free play of market forces as rapidly as the circumstances require.
- (c) To provide a period of transition which will afford opportunities for the orderly solution of particular commodity problems by agreement between member governments upon a programme of over-all economic adjustments designed to promote a shift of resources and man-power out of over-expanded industries into new and productive occupations.

4. *Principles of inter-governmental commodity agreements.* Members should undertake to adhere to the following principles governing the institution of inter-governmental commodity agreements:

- (a) Members having an interest in the production or consumption of any commodity for which an inter-governmental commodity agreement is proposed, should be entitled to participate in the consideration of the proposed agreement.
- (b) Members should undertake not to enter into inter-governmental commodity agreements involving the limitation of production or exports or the allocation of markets, except after:

- (1) Investigation by the Study Group of the root causes of the problem which gave rise to the proposal;
- (2) Determination, in accordance with procedures approved by the Organization, either:
  - (a) that a burdensome surplus of the product concerned has developed or is developing in international trade, and is accompanied by widespread distress to small producers accounting for a substantial proportion of the total output and that these conditions cannot be corrected by the normal play of competitive forces because, in the case of the product concerned, a substantial reduction of price leads neither to a significant increase in consumption nor to a significant decrease in production; or
  - (b) that widespread unemployment, unrelated to general business conditions, has developed or is developing in respect of the industry concerned and that such unemployment cannot be corrected by the normal play of competitive forces rapidly enough to prevent widespread and undue hardship to workers because, in the case of the industry concerned, (i) a substantial reduction of price does not lead to a significant increase in consumption but leads instead to the reduction of employment, and (ii) the resulting unemployment cannot be remedied by normal processes or reallocation;
- (3) Formulation and adoption by members of a programme of economic adjustment believed to be adequate to ensure substantial progress toward solution of the problem within the time limits of the agreement.
- (c) Inter-governmental agreements involving the limitation of production or exports or the allocation of markets in respect of fabricated products should not be resorted to unless the Organization finds that exceptional circumstances justify such action. Such agreements should be subject to the principles set forth in this Chapter, and, in addition, to any other requirements which the Organization may establish.

5. *Operation of commodity agreements.* Members should undertake to adhere to the following principles governing the operation of inter-governmental commodity agreements:

- (a) The agreements should be open to accession by any member on terms not less favourable than those accorded to members parties thereto.

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- (b) The members adhering to such agreements which are largely dependent for consumption on imports of the commodity involved should, in any determinations made relating to the regulation of prices, trade, stocks, or production, have together a voice equal to those largely interested in obtaining export markets for their production.
- (c) The agreements should, when necessary, contain provisions for assuring the availability of supplies adequate at all times for world consumption requirements at reasonable prices.
- (d) The agreements should, with due regard to the transitional need for preventing serious economic and social dislocation, make appropriate provision to afford increasing opportunities for satisfying world requirements from sources from which such requirements can be supplied most effectively.

6. *Termination and renewal of commodity agreements.* Inter-governmental commodity agreements should not remain initially in effect for more than five years. The renewal of an agreement should be subject to the principles governing new agreements set forth in paragraph 4, above, and to the additional principle that either (a) substantial progress toward a solution of the underlying problem shall have been accomplished during the initial period of the agreement, or that (b) the renewed agreement is so revised as to be effective for this purpose.

7. *Review of commodity agreements.* Members should undertake to transmit to the Organization, for review, inter-governmental commodity agreements in which they now participate or in which they propose to participate in the future. Members should also transmit to the Organization appropriate information regarding the formulation, provisions and operation of such agreements.

8. *Publicity.* Full publicity should be given to any commodity agreement proposed or concluded, to the statements of considerations and objectives advanced by the proposing members, to the operation of the agreements, and to the nature and development of measures adopted to correct the underlying situation which gave rise to the agreement.

9. *Exceptions.* The provisions of Chapter V are not designed to cover international agreements relating to the protection of public morals; the protection of human, animal or plant life or health; the conservation of reserves of exhaustible natural resources; the control of international monopoly situations; or the equitable distribution of commodities in short supply. However, such agreements should not be used to accomplish results inconsistent with the objectives of Chapter IV or Chapter V. If any such agreement involves the restriction of production or of international trade, it



should not be adopted unless authorized or provided for by a multi-lateral convention subscribed to by a substantial number of nations, or unless operated under the Organization.

## CHAPTER VI

### ORGANIZATION

#### Section A. Functions

The functions of the Organization should include the following:

1. To collect, analyse and publish information, regarding the operation of Chapter III, relating to general commercial policy, Chapter IV, relating to the prevention of restrictive business practices, and Chapter V, relating to inter-governmental commodity arrangements, or in general regarding international trade and commercial policy.
2. To provide technical assistance to members as may be required or appropriate under the provisions of Chapters III, IV and V.
3. To make recommendations to members regarding the operation of Chapters III, IV and V, including the following:
  - (a) Recommendations regarding the relaxation or removal of trade control measures permitted under Chapter III.
  - (b) Recommendations as to measures for implementing the objectives with regard to restrictive private business practices, set forth in Chapter IV.
  - (c) Recommendations regarding the application to commodity arrangements under consideration by members of the principles governing commodity arrangements set forth in Chapter V; and recommendations initiating proposals for new commodity arrangements, or proposing such modifications, including termination, of commodity arrangements already concluded, as may be deemed appropriate under the commodity principles or in the general interest.
  - (d) Recommendations designed to promote the maximum obtainable consistency in the operation of Chapters III, IV and V and in other arrangements in the fields of general commercial policy, commodity arrangements and private business practices.
4. To interpret the provisions of Chapters III, IV and V, to consult with members regarding disputes growing out of the provisions of those Chapters, and to provide a mechanism for the settlement of such disputes.

## PROPOSALS ON TRADE AND EMPLOYMENT

5. In accordance with criteria and procedures to be agreed upon, to waive particular obligations of members, in exceptional circumstances.
6. To make recommendations for international agreements designed to improve the bases of trade and to assure just and equitable treatment for the enterprises, skills and capital brought from one country to another, including agreements on the treatment of foreign nationals and enterprises, on the treatment of commercial travellers, on commercial arbitration, and on the avoidance of double taxation.
7. Generally to perform any function appropriate to the purposes of the Organization.

### Section B. Organs

The Organization should have as its principal organs: A Conference, an Executive Board, a Commercial Policy Commission, a Commission on Business Practices, a Commodity Commission, and a Secretariat.

### Section C. The Conference

The Conference should have final authority to determine the policies of the Organization and to exercise the powers conferred upon the Organization.

1. *Membership.* All states members of the Organization should be members of the Conference.
2. *Voting.* Each member of the Conference should have one vote. Except as may be otherwise specifically provided for, decisions of the Conference should be reached by a simple majority vote. It may be desirable to provide for special voting arrangements with regard to the exercise of certain functions of the Organization.
3. *Sessions.* The Conference should meet at least once a year.

### Section D. The Executive Board

The Executive Board should be authorized to take provisional decisions between meetings of the Conference and to exercise such powers as may be delegated to it by the Conference. The Conference should in general be authorized to delegate its powers to the Executive Board.

1. *Membership.* The Executive Board should consist of not more than eighteen member states, each of which should have one representative. Member states of chief economic importance should have permanent seats. The Conference should elect the

states to fill the non-permanent seats for three-year terms, one-third of the non-permanent members retiring every year. The number of non-permanent seats should exceed the number of permanent seats, but the latter should not be fewer than one-third of the total number of seats.

2. *Voting and sessions.* The Executive Board should regulate its own procedure.

#### Section E. The Commissions

The Commission on Commercial Policy, the Commission on Business Practices and the Commodity Commission should be responsible to the Executive Board. Each Commission should be given as much initiative and independence of action as may be necessary for the effective discharge of its functions.

1. *Membership.* The Commissions should be composed of experts appointed by the Executive Board. The terms and other conditions of office of the members of the Commissions should be determined in accordance with regulations prescribed by the Conference. Such terms and conditions need not be uniform, but may vary from Commission to Commission. Pursuant to the reciprocal arrangements with other specialized international organizations contemplated in Section H, paragraph 2, of this Chapter, provision should be made for appropriate representation on the Commodity Commission of the Food and Agriculture Organization of the United Nations and of other specialized international organizations having an important interest in the commodity operations discussed in Chapter V.
2. *Chairmen.* The Chairmen of the Commissions should be non-voting members of the Executive Board and should be permitted to participate, without vote, in the deliberations of the Conference.
3. *Voting and Sessions.* Each Commission should regulate its own procedure, subject to any decisions made by the Executive Board.
4. *Functions.* The functions of the Commissions should include the following:
  - (a) *The Commercial Policy Commission.* The Commercial Policy Commission should:
    - (1) Review, and advise the Executive Board regarding, the operation of treaties, agreements, practices and policies affecting international trade.
    - (2) Investigate, and advise the Executive Board regarding, the economic aspects of proposals to waive certain

## PROPOSALS ON TRADE AND EMPLOYMENT

- obligations of members in accordance with the provisions of paragraph 5, Section A, of this Chapter.
- (3) Investigate, and advise the Executive Board regarding, the economic aspects of proposed customs unions.
  - (4) Develop and recommend to the Executive Board, for adoption by members of the Organization, co-operative projects of a technical nature in the field of commercial policy (e.g., standard bases and methods of determining dutiable value, uniform customs nomenclature, and standardization of statistical methods and nomenclature in foreign trade statistics).
  - (5) Develop and recommend to the Executive Board additional programmes designed to further the objectives of the Organization in the general field of commercial policy.
- (b) *The Commission on Business Practices.* The Commission on Business Practices should:
- (1) Inquire into activities on the part of private commercial enterprise which have the effect or purpose of restraining international trade, restricting access to international markets, or of fostering monopolistic controls in international trade.
  - (2) Advise the Executive Board with regard to the recommendations which should be made to members in respect of business divestitures, reorganizations, dissolutions or other remedial actions.
  - (3) Conduct investigations and make recommendations to the Executive Board looking to the promotion and adoption in all countries of codes of fair business practices designed to facilitate and enlarge the flow of international trade.
  - (4) Advise the Executive Board as to the types of information which members should file with the Organization.
  - (5) Facilitate appropriate inter-governmental arrangements for the international exchange of technological information, on a non-discriminatory basis.
- (c) *The Commodity Commission.* The Commodity Commission should:
- (1) Investigate commodity problems, including the problem of an international buffer stocks organization or other arrangements which are proposed as a means of promoting solutions to commodity problems.

## PROPOSALS ON TRADE AND EMPLOYMENT

- (2) Make recommendations to the Executive Board on appropriate courses of action, including recommendations for the establishment of Study Groups for particular commodities. Such Study Groups should be established by the Executive Board, upon the recommendations of the Commodity Commission, for the purpose of investigating problems with respect to particular commodities. The Study Groups should be composed of representatives of member governments invited to participate by the Executive Board and one or more representatives designated by the Commodity Commission.
- (3) Make recommendations to the Executive Board as to whether or not a particular commodity is in world surplus.
- (4) Make recommendations to the Executive Board as to whether an application made by a member for the convening of an inter-governmental conference should be granted.
- (5) Designate members of the Commission to participate in an advisory capacity in the formulation of inter-governmental commodity agreements.
- (6) Make recommendations to the Executive Board regarding the application of the commodity agreements under consideration by members.
- (7) Designate the Chairman and Secretary for any Commodity Council established to administer an inter-governmental commodity agreement.
- (8) Maintain continuous review of the conduct of the operations of inter-governmental commodity agreements in the light of the terms of the agreements, the commodity principles in Chapter V, and the general welfare; and make recommendations to the Executive Board with regard thereto.

### Section F. Industrial and Mineral Unit

The Conference should create an Industrial and Mineral Unit responsible to the Executive Board. The Industrial and Mineral Unit should promote by technical assistance and other appropriate means the expansion of production and trade with regard to fabricated products and with regard to minerals and other primary commodities in respect of which such promotional activities are not under the jurisdiction of the Food and Agriculture Organization.

## PROPOSALS ON TRADE AND EMPLOYMENT

### Section G. The Secretariat

The Secretariat, which should be divided into three or more offices, should serve all the organs of the Organization and the Commodity Councils established to administer specific commodity arrangements. It should be headed by a Director-General. Under his authority there should be three or more Deputy Directors-General each of whom should be in charge of an office. The Director-General, and on the advice of the Director-General, the Deputy Directors-General, should be appointed by the Conference upon the nomination of the Executive Board. The Director-General should be the chief administrative officer of the Organization and should be an *ex-officio* member, without vote, of the Executive Board. Three Deputy Directors-General should be *ex officio* members of the three Commissions. The Director-General and the Deputy Directors-General should have the authority to initiate proposals for the consideration of any organ of the Organization.

### Section H. Relations with other Organizations

1. *Relations with the United Nations Organization.* The Organization should be brought into relationship with the United Nations Organization on terms to be determined by agreement between the Executive Board and the appropriate authorities of the United Nations Organization, subject to approval by the Conference.

2. *Relations with other specialized international organizations.* In order to provide for close co-operation between the Organization and other specialized international organizations with related responsibilities, the Executive Board, subject to the approval of the Conference, should be authorized to enter into agreements with the appropriate authorities of such organizations defining the distribution of responsibilities and methods of co-operation.

3. *Administrative arrangements.* The Director-General should be authorized, subject to the authority of the Conference or of the Executive Board, to enter into agreements with other international organizations for the maintenance of common services, for common arrangements in regard to recruitment, training, conditions of service, and other related matters, and for interchanges of staff.

## JOINT STATEMENT BY THE UNITED STATES AND THE UNITED KINGDOM REGARDING THE UNDERSTANDING REACHED ON COMMERCIAL POLICY

December 6, 1945

The Secretary of State of the United States has made public to-day a document setting forth certain "Proposals for consideration by an

International Conference on Trade and Employment". These proposals have the endorsement of the Executive branch of the Government of the United States and have been submitted to other governments as a basis for discussion preliminary to the holding of such a conference.

Equally, the Government of the United Kingdom is in full agreement on all important points in these proposals and accepts them as a basis for international discussion, and it will, in common with the United States Government, use its best endeavours to bring such discussions to a successful conclusion, in the light of the views expressed by other countries.

The two Governments have also agreed upon the procedures for the international negotiation and implementation of these proposals. To this end they have undertaken to begin preliminary negotiations at an early date between themselves and with other countries for the purpose of developing concrete arrangements to carry out these proposals, including definitive measures for the relaxation of trade barriers of all kinds.

These negotiations will relate to tariffs and preferences, quantitative restrictions, subsidies, State trading, cartels, and other types of trade barriers treated in the document published by the United States and referred to above. The negotiations will proceed in accordance with the principles laid down in that document.

## MOSCOW CONFERENCE<sup>1</sup>

Communiqué, December 24 and 28, 1945

### PART I

The Governments of the Soviet Union, United Kingdom and United States of America announce that they have agreed and have requested the adherence of the Governments of France and China to the following procedure with respect to the preparation of peace treaties.

1. In the drawing up by the Council of Foreign Ministers of treaties of peace with Italy, Rumania, Bulgaria, Hungary, and Finland only members of the Council who are or under the terms of the agreement establishing the Council of Foreign Ministers adopted at the Berlin conference are deemed to be signatory of the surrender terms, will participate unless and until the Council takes further action under the agreement to invite other members of the

<sup>1</sup> *The Times*, December 27 and 28, 1945.

## SECOND MOSCOW CONFERENCE

Council to participate on questions directly concerning them. That is to say:

- (a) The terms of the peace treaty with Italy will be drafted by the Foreign Ministers of the United Kingdom, the United States of America, the Soviet Union, and France.
- (b) The terms of the peace treaties with Rumania, Bulgaria, and Hungary by the Foreign Ministers of the Soviet Union, the United States of America, and the United Kingdom.
- (c) The terms of the peace treaty with Finland by the Foreign Ministers of the Soviet Union and the United Kingdom.

The deputies of the Foreign Ministers will immediately resume their work in London on the basis of the understandings reached on the question discussed at the first plenary conference of the Council of Foreign Ministers in London.

### CONVENING OF CONFERENCE

2. When the preparation of all these drafts has been completed the Council of Foreign Ministers will convene a conference for the purpose of considering the treaties of peace with Italy, Rumania, Bulgaria, Hungary, and Finland. The conference will consist of the five members of the Council of Foreign Ministers together with all members of the United Nations which actively waged war with substantial military force against European enemy States—namely, the U.S.S.R., the United Kingdom, the United States, China, France, Australia, Belgium, Byelo-Russian S.S.R., Brazil, Canada, Czechoslovakia, Ethiopia, Greece, India, Netherlands, New Zealand, Norway, Poland, Union of South Africa, Yugoslavia, and Ukrainian S.S.R. The conference will be held not later than May 1, 1946.

3. After the conclusion of the deliberations of the conference and upon consideration of its recommendations the States signatory to the terms of armistice with Italy, Rumania, Bulgaria, Hungary, and Finland, or regarded as such (France being regarded as such for the purposes of the peace treaty with Italy), will draw up the final texts of the peace treaties.

4. The final texts of the respective peace treaties, as so drawn up, will be signed by representatives of the States represented at the conference which are at war with the enemy States in question. The texts of the respective peace treaties will then be submitted to the other United Nations which are at war with the enemy States in question.

5. Peace treaties will come into force immediately after they have been ratified by the allies signatory to the respective armistices,



France being regarded as such in the case of the peace treaty with Italy. These treaties are subject to ratification by the enemy States in question.

## PART II

### FAR EASTERN COMMISSION AND ALLIED COUNCIL FOR JAPAN

A FAR EASTERN COMMISSION. Agreement was reached, with the concurrence of China, for the establishment of a Far Eastern Commission to take the place of the Far Eastern Advisory Commission. The terms of reference for the Far Eastern Commission are as follows:

#### *Article I*

##### ESTABLISHMENT OF THE COMMISSION

A Far Eastern Commission is hereby established composed of the representatives of the U.S.S.R., United Kingdom, United States of America, China, France, the Netherlands, Canada, Australia, New Zealand, India, and the Philippine Commonwealth.

#### *Article II*

##### FUNCTIONS

(a) The functions of the Far Eastern Commission shall be:

1. To formulate the policies, principles, and standards of conformity with which the fulfilment by Japan of its obligations under the terms of surrender may be accomplished.
2. To review, on the request of any member, any directive issued to the Supreme Commander for the allied Powers or any action taken by the Supreme Commander involving policy decisions within the jurisdiction of the Commission.
3. To consider such other matters as may be assigned to it by agreement among the participating Governments reached in accordance with the voting procedure provided for in Article V (2) hereunder.

(b) The Commission shall not make recommendations with regard to the conduct of military operations nor with regard to territorial adjustments.

(c) The Commission in its activities will proceed from the fact that there has been formed an Allied Council for Japan and will respect existing control machinery in Japan, including the chain of command from the United States Government to the Supreme Commander and the Supreme Commander's command of occupation forces.

## SECOND MOSCOW CONFERENCE

### *Article III*

#### FUNCTIONS OF THE UNITED STATES GOVERNMENT

1. The United States Government shall prepare directives in accordance with policy decisions of the Commission and shall transmit them to the Supreme Commander through the appropriate United States Government agency. The Supreme Commander shall be charged with the implementation of the directives which express the policy decisions of the Commission.

2. If the Commission decides that any directive or action reviewed in accordance with Article II (a) 2 should be modified, its decision shall be regarded as a policy decision.

3. The United States Government may issue interim directives to the Supreme Commander pending action by the Commission whenever urgent matters arise not covered by policies already formulated by the Commission; provided that any directives dealing with fundamental changes in the Japanese constitutional structure or in the regime of control, or dealing with a change in the Japanese Government as a whole will be issued only following consultation and following the attainment of agreement in the Far Eastern Commission.

4. All directives issued shall be filed with the Commission.

### *Article IV*

#### OTHER METHODS OF CONSULTATION

The establishment of the Commission shall not preclude the use of other methods of consultation on Far Eastern issues by the participating Governments.

### *Article V*

#### COMPOSITION

1. The Far Eastern Commission shall consist of one representative of each of the States party to this agreement. The membership of the Commission may be increased by agreement among the participating powers as conditions warrant by the addition of representatives of other United Nations in the Far East or having territories therein. The Commission shall provide for full and adequate consultation, as occasion may require, with representatives of the United Nations not members of the Commission in regard to matters before the Commission which are of particular concern to such nations.

2. The Commission may take action by less than unanimous vote provided that action shall have the concurrence of at least a majority of all the representatives including the representatives of the four

## SECOND MOSCOW CONFERENCE

following powers: United States of America, United Kingdom, U.S.S.R. and China.

### *Article VI*

#### LOCATION AND ORGANIZATION

1. The Far Eastern Commission shall have its headquarters in Washington. It may meet at other places as occasion requires, including Tokyo, if and when it deems it desirable to do so. It may make such arrangements through the Chairman as may be practicable for consultation with the Supreme Commander for the Allied Powers.

2. Each representative on the Commission may be accompanied by an appropriate staff comprising both civilian and military representation.

3. The Commission shall organize its Secretariat, appoint such committees as may be deemed advisable, and otherwise perfect organization and procedure.

### *Article VII*

#### TERMINATION

The Far Eastern Commission shall cease to function when a decision to that effect is taken by the concurrence of at least a majority of all the representatives, including the representatives of the four following Powers: United States of America, United Kingdom, U.S.S.R., and China. Prior to the termination of its functions the Commission shall transfer to any interim or permanent security organization of which the participating Governments are members those functions which may appropriately be transferred.

It was agreed that the Government of the United States of America on behalf of the four Powers should present the terms of reference to the other Governments specified in Article I and invite them to participate in the Commission on the revised basis.

**B. ALLIED COUNCIL FOR JAPAN.** The following agreement was also reached with the concurrence of China, for the establishment of an Allied Council for Japan:

1. There shall be established an Allied Council with its seat in Tokyo under the Chairmanship of the Supreme Commander for the Allied Powers (or his deputy) for the purpose of consulting with and advising the Supreme Commander in regard to the implementation of the terms of surrender, the occupation and control of Japan, and of directives supplementary thereto; and for the purpose of exercising the control authority herein granted.

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2. The membership of the Allied Council shall consist of the Supreme Commander (or his deputy) who shall be Chairman and United States member; a Union of Soviet Socialist Republics member; a Chinese member; and a member representing jointly the United Kingdom, Australia, New Zealand and India.
3. Each member shall be entitled to have an appropriate staff consisting of military and civilian advisers.
4. The Allied Council shall meet not less often than once every two weeks.
5. The Supreme Commander shall issue all orders for the implementation of the terms of surrender, the occupation and control of Japan, and directives supplementary thereto. In all cases action will be carried out under and through the Supreme Commander who is the sole executive authority for the Allied Powers in Japan. He will consult and advise with the Council in advance of the issuance of orders on matters of substance, the exigencies of the situation permitting. His decisions upon these matters shall be controlling.
6. If, regarding the implementation of policy decisions of the Far Eastern Commission on questions concerning a change in the regime of control, fundamental changes in the Japanese constitutional structure, and a change in the Japanese Government as a whole, a member of the Council disagrees with the Supreme Commander (or his deputy) the Supreme Commander will withhold the issuance of orders on these questions pending agreement thereon in the Far Eastern Commission.
7. In cases of necessity the Supreme Commander may take decisions concerning the change of individual Ministers of the Japanese Government, or concerning the filling of vacancies created by the resignation of individual Cabinet members, after appropriate preliminary consultation with the representatives of other Allied Powers on the Allied Council.

## PART III

### KOREA

1. With a view to the re-establishment of Korea as an independent State, the creation of conditions for developing the country on democratic principles and the earliest possible liquidation of the disastrous results of the protracted Japanese domination in Korea, there shall be set up a Provisional Korean Democratic Government, which shall take all the necessary steps for developing the industry, transport,

and agriculture of Korea, and the national culture of the Korean people.

2. In order to assist the formation of a Provisional Korean Government, and with a view to the preliminary elaboration of the appropriate measures, there shall be established a joint Commission consisting of representatives of the United States Command in southern Korea and the Soviet Command in northern Korea. In preparing their proposals the Commission shall consult with the Korean Democratic parties and social organizations. The recommendations worked out by the Commission shall be presented for the consideration of the Governments of the U.S.S.R., China, the United Kingdom, and the United States of America prior to final decision by the two Governments represented on the Joint Commission.

3. It shall be the task of the Joint Commission with the participation of the provisional Korean Democratic Government and of the Korean Democratic Organizations to work out measures also for helping and assisting (trusteeship) the political, economic, and social progress of the Korean people, the development of democratic self-government and the establishment of national independence of Korea. The proposals of the Joint Commission shall be submitted following consultation with the Provisional Korean Government, for the joint consideration of the Governments of the U.S.S.R., United States of America, United Kingdom and China for the working out of an agreement concerning a four-Power trusteeship of Korea for a period of up to five years.

4. For the consideration of urgent problems affecting both southern and northern Korea and for the elaboration of measures establishing permanent co-ordination in administrative-economic matters between the United States Command in southern Korea and the Soviet Command in northern Korea, a conference of the representatives of the United States and Soviet Commands in Korea shall be convened within a period of two weeks.

## PART IV

### CHINA

The three Foreign Secretaries exchanged views with regard to the situation in China. They were in agreement as to the need for a unified and democratic China under the National Government, for broad participation by democratic elements in all branches of the National Government, and for a cessation of civil strife. They reaffirmed their adherence to the policy of non-interference in the internal affairs of China.

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Mr Molotov and Mr Byrnes had several conversations concerning Soviet and American armed forces in China. Mr Molotov stated that the Soviet forces had disarmed and deported Japanese troops in Manchuria, but that withdrawal of Soviet forces had been postponed until February 1 at the request of the Chinese Government. Mr Byrnes pointed out that American forces were in north China at the request of the Chinese Government, and referred also to the primary responsibility of the United States in the implementation of the terms of surrender with respect to the disarming and deportation of Japanese troops. He stated that American forces would be withdrawn just as soon as this responsibility was discharged or the Chinese Government was in a position to discharge the responsibility without the assistance of American forces.

The two Foreign Secretaries were in complete accord as to the desirability of withdrawal of Soviet and American forces from China at the earliest practicable moment consistent with the discharge of their obligations and responsibilities.

### PART V

#### RUMANIA

The three Governments are prepared to give King Michael the advice for which he has asked in his letter of August 21, 1945, on the broadening of the Rumanian Government.

The King should be advised that one member of the National Peasant Party and one member of the Liberal Party should be included in the Government. The Commission referred to below shall satisfy itself that:

- (a) They are truly representative members of the groups of the parties not represented in the Government;
  - (b) They are suitable and will work loyally with the Government.
- The Three Governments take note that the Rumanian Government thus reorganized should declare that free and unfettered elections will be held as soon as possible on the basis of universal and secret ballot. All democratic and anti-Fascist parties should have the right to take part in these elections and to put forward candidates. The reorganized Government should give assurances concerning the grant of freedom of the Press, speech, religion and association.

A. Y. Vyshinski, Mr Harriman and Sir A. Clark Kerr are authorized as a Commission to proceed to Bucharest immediately to consult with King Michael and members of the present Government,

with a view to the execution of the above-mentioned tasks. As soon as these tasks are accomplished and the required assurances have been received, the Government of Rumania, with which the Soviet Government maintains diplomatic relations, will be recognized by the Government of the United States of America and by the Government of the United Kingdom.

## PART VI

### BULGARIA

- It is understood by the three Governments that the Soviet Government takes upon itself the mission of giving friendly advice to the Bulgarian Government with regard to the desirability of the inclusion in the Bulgarian Government of the Fatherland Front, now being formed, of an additional two representatives of other democratic groups, who (a) are truly representative of the groups of the parties which are not participating in the Government, and (b) are really suitable and will work loyally with the Government. As soon as the Governments of the United States of America and the United Kingdom are convinced that this friendly advice has been accepted by the Bulgarian Government and the said additional representatives have been included in its body, the Government of the United States of America and the Government of the United Kingdom will recognize the Bulgarian Government, with which the Government of the Soviet Union already has diplomatic relations.

## PART VII

### THE ESTABLISHMENT BY THE UNITED NATIONS OF A COMMISSION FOR THE CONTROL OF ATOMIC ENERGY

Discussion of the subject of atomic energy related to the question of the establishment of a Commission by the General Assembly of the United Nations. The Ministers of Foreign Affairs of the U.S.S.R., the United States of America, and the United Kingdom have agreed to recommend, for the consideration of the General Assembly of the United Nations, the establishment by the United Nations of a Commission to consider problems arising from the discovery of atomic energy and related matters. They have agreed to invite the other permanent members of the Security Council, France and China, together with Canada, to join with them in assuming the initiative in sponsoring the following resolution at the first session of the General Assembly of the United Nations in January, 1946:

## SECOND MOSCOW CONFERENCE

Resolved by the General Assembly of the United Nations to establish a Commission, with the composition and competence set out hereunder, to deal with the problems raised by the discovery of atomic energy and other related matters.

### *Article I*

#### ESTABLISHMENT OF THE COMMISSION

A Commission is hereby established by the General Assembly with the terms of reference set out under Article V below.

### *Article II*

#### RELATIONS OF THE COMMISSION WITH THE ORGANS OF THE UNITED NATIONS

(a) The Commission shall submit its reports and recommendations to the Security Council, and such reports and recommendations shall be made public unless the Security Council, in the interest of peace and security, otherwise directs. In the appropriate cases the Security Council should transmit these reports to the General Assembly and the members of the United Nations, as well as to the Economic and Social Council and other organs within the framework of the United Nations.

(b) In view of the Security Council's primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, the Security Council shall issue directions to the Commission in matters affecting security. On these matters the Commission shall be accountable for its work to the Security Council.

### *Article III*

#### COMPOSITION OF THE COMMISSION

The Commission shall be composed of one representative from each of those States, represented on the Security Council, and Canada when that State is not a member of the Security Council. Each representative on the Commission may have such assistants as he may desire.

### *Article IV*

#### RULES OF PROCEDURE

The Commission shall have whatever staff it may deem necessary, and shall make recommendations for its rules of procedure to the Security Council, which shall approve them as a procedural matter.



*Article V*

## TERMS OF REFERENCE OF THE COMMISSION

The Commission shall proceed with the utmost dispatch and inquire into all phases of the problem and make such recommendations from time to time with respect to them as it finds possible. In particular, the Commission shall make specific proposals:

- (a) For extending between all nations the exchange of basic scientific information for peaceful ends;
- (b) For control of atomic energy to the extent necessary to ensure its use only for peaceful purposes;
- (c) For the elimination from national armaments of atomic weapons and all other major weapons adaptable to mass destruction;
- (d) For effective safeguards by way of inspection and other means to protect complying States against the hazards of violations and evasions.

The work of the Commission should proceed by separate stages; the successful completion of each will develop the necessary confidence of the world before the next stage is undertaken. The Commission shall not infringe upon the responsibilities of any organ of the United Nations, but should present recommendations for the consideration of those organs in the performance of their tasks under the terms of the United Nations Charter.

ERNEST BEVIN, JAMES F. BYRNES,  
V. M. MOLOTOV.

ADDENDUM<sup>1</sup>

## VOTING PROCEDURE IN THE SECURITY COUNCIL

STATEMENT BY THE DELEGATIONS OF THE FOUR SPONSORING GOVERNMENTS ON VOTING PROCEDURE IN THE SECURITY COUNCIL, JUNE 7, 1945<sup>2</sup>

Specific questions covering the voting procedure in the Security Council have been submitted by a Sub-Committee of the Conference Committee on Structure and Procedures of the Security Council to the delegations of the four Governments sponsoring the Conference—the United States of America, the United Kingdom of

<sup>1</sup> In view of the importance that the veto has assumed during the first half of 1946, this document has been included as an addendum.

<sup>2</sup> UNCIO, Doc. 852 (English) III/1/37 (1); Department of State, *Bulletin*, XII, p.1047.

## ADDENDUM

Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the Republic of China. In dealing with these questions, the four delegations desire to make the following statement of their general attitude towards the whole question of unanimity of permanent members in the decisions of the Security Council.

### I

1. The Yalta voting formula recognizes that the Security Council, in discharging its responsibilities for the maintenance of international peace and security, will have two broad groups of functions. Under Chapter VIII, the Council will have to make decisions which involve its taking direct measures in connection with settlement of disputes, adjustment of situations likely to lead to disputes, determination of threats to the peace, removal of threats to the peace, and suppression of breaches of the peace. It will also have to make decisions which do not involve the taking of such measures. The Yalta formula provides that the second of these two groups of decisions will be governed by a procedural vote—that is, the vote of any seven members. The first group of decisions will be governed by a qualified vote—that is the vote of seven members, including the concurring votes of the five permanent members, subject to the proviso that in decisions under Section A and a part of Section C of Chapter VIII parties to a dispute shall abstain from voting.

2. For example, under the Yalta formula a procedural vote will govern the decisions made under the entire Section D of Chapter VI. This means that the Council will, by a vote of any seven of its members, adopt or alter its rules of procedure; determine the method of selecting its President; organize itself in such a way as to be able to function continuously; select the times and places of its regular and special meetings; establish such bodies or agencies as it may deem necessary for the performance of its functions; invite a member of the Organization not represented on the Council, to participate in its discussions when that Member's interests are specially affected; and invite any state when it is a party to a dispute being considered by the Council to participate in the discussion relating to that dispute.

3. Further, no individual member of the Council can alone prevent consideration and discussion by the Council of a dispute or situation brought to its attention under paragraph 2, Section A, Chapter VIII. Nor can parties to such disputes be prevented by these means from being heard by the Council. Likewise, the requirement for unanimity of the permanent members cannot prevent any member of the Council from reminding the members of the Organ-

ization of their general obligations assumed under the Charter as regards peaceful settlement of international disputes.

4. Beyond this point, decisions and actions by the Security Council may well have major political consequences and may even initiate a chain of events which might, in the end, require the Council under its responsibilities, to invoke measures of enforcement under Section B, Chapter VIII. This chain of events begins when the Council decides to make an investigation, or determines that the time has come to call upon states to settle their differences, or makes recommendations to the parties. It is to such decisions and actions that unanimity of the permanent members applies, with the important proviso, referred to above, for abstention from voting by parties to a dispute.

5. To illustrate: in ordering an investigation, the Council has to consider whether the investigation—which may involve calling for reports, hearing witnesses, dispatching a commission of inquiry, or other means—might not further aggravate the situation. After investigation, the Council must determine whether the continuance of the situation or dispute would be likely to endanger international peace and security. If it so determines, the Council would be under obligation to take further steps. Similarly, the decision to make recommendations, even when all parties request it to do so, or to call upon parties to a dispute to fulfil their obligations under the Charter, might be the first step on a course of action from which the Security Council could withdraw only at the risk of failing to discharge its responsibilities.

6. In appraising the significance of the vote required to take such decisions or actions, it is useful to make comparison with the requirements of the League Covenant with reference to decisions of the League Council. Substantive decisions of the League of Nations Council could be taken only by the unanimous vote of all its members, whether permanent or not, with the exception of parties to a dispute under Article XV of the League Covenant. Under Article XI, under which most of the disputes brought before the League were dealt with and decisions to make investigations taken, the unanimity rule was invariably interpreted to include even the votes of the parties to a dispute.

7. The Yalta voting formula substitutes for the rule of complete unanimity of the League Council a system of qualified majority voting in the Security Council. Under this system non-permanent members of the Security Council individually would have no "veto". As regards the permanent members, there is no question under the Yalta formula of investing them with a new right, namely, the right to veto, a right which the permanent members of the League

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Council always had. The formula proposed for the taking of action in the Security Council by a majority of seven would make the operation of the Council less subject to obstruction than was the case under the League of Nations rule of complete unanimity.

8. It should also be remembered that under the Yalta formula the five major powers could not act by themselves, since even under the unanimity requirement any decisions of the Council would have to include the concurring votes of at least two of the non-permanent members. In other words, it would be possible for five non-permanent members as a group to exercise a "veto". It is not to be assumed, however, that the permanent members, any more than the non-permanent members, would use their "veto" power wilfully to obstruct the operation of the Council.

9. In view of the primary responsibilities of the permanent members, they could not be expected, in the present condition of the world, to assume the obligation to act in so serious a matter as the maintenance of international peace and security in consequence of a decision in which they had not concurred. Therefore, if majority voting in the Security Council is to be made possible, the only practicable method is to provide, in respect of non-procedural decisions, for unanimity of the permanent members plus the concurring votes of at least two of the non-permanent members.

10. For all these reasons, the four sponsoring Governments agreed on the Yalta formula and have presented it to this Conference as essential if an international organization is to be created through which all peace-loving nations can effectively discharge their common responsibilities for the maintenance of international peace and security.

## II

In the light of the considerations set forth in Part I of this statement, it is clear what the answers to the questions submitted by the Sub-committee should be, with the exception of Question 19.<sup>1</sup> The answer to that question is as follows:—

<sup>1</sup> Question 19 of the questionnaire submitted by a Sub-Committee of the Conference Committee on Structure and Procedures of the Security Council to the delegations of the four Governments sponsoring the Conference—the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the Republic of China—is as follows: *Under the second paragraph of Chapter VI(C):*

"Section C. Voting. 1. Each member of the Security Council should have one vote.

"2. Decisions of the Security Council on procedural matters should be made by an affirmative vote of seven members."

(19) In case a decision has to be taken as to whether a certain point is a procedural matter, is that preliminary question to be considered in itself as a procedural matter or is the veto applicable to such preliminary question? (UNCIO, Doc. 855 [English] III/1/B/2 [a]; Department of State, *Bulletin*, xii, p. 1044.)

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1. In the opinion of the delegations of the sponsoring governments, the draft Charter itself contains an indication of the application of the voting procedures to the various functions of the Council.

2. In this case, it will be unlikely that there will arise in the future any matters of great importance on which a decision will have to be made as to whether a procedural vote would apply. Should, however, such a matter arise, the decision regarding the preliminary question as to whether or not such a matter is procedural must be taken by a vote of seven members of the Security Council, including the concurring votes of the permanent members.











